FIRST

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS

NO

LAND LAW (IRELAND);

TOSETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND APPENDIX.

Ordered, by The House of Commons, to be Printed, 26 June 1882.

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FIRST REPORT.

BY THE SELECT COMMITTEE appointed to inquire into the Working of recent Legislation in reference to LAND in IRBLAND and its Effect upon the Condition of the Country; and to Report to the House, and to whom leave was given to Report from time to time.

ORDERED TO REPORT.

- That the Committee have met and examined several witnesses.
- 2. The Committee have not yet completed their inquiry into the masters referred to them; but they think it desirable to report the evidence at its referred to them; and the property of the contract of th
- 3. With tribunals and a procedure so novel as those which the A of of 1881 has established for fixely a plinfail rent, it has superpling that condicienth fericion should arise, and many imprefections should be discovered, when the Act came friction and these imperfections and the rise that the considerable friction and these imperfections and the principal control of the principal control of the control o
- 4. It appears from the revidence that the notice given to the parties of the heaving of a case before Sub-commissioners is from a fortificial to three weeks, and sometimes less than a fornight, while there is no reason why a longer notice should so the given. It further appears that latel 450 eases for heaving is ease should so the given. It furthers appears that latel 450 eases for heaving is ease which is the parties in each of these cases are expected to be ready with their professional neidrar, valunters, and other witnesses, on the first day of the sitting, and themoeferward during the sitting; that the expense of this to the lattice, and themoeferward during the sitting; that the expense of this to the lattice, and when the sitting is the sitting and the createst, and to the tenant at a less must not the sitting and the createst.

This Committee think that a notice of not less than three weeks should be given of the hearing of each case; that as for an possible notice should be given given of the theories of the contraction of the contraction of the contraction of the required to be in attendance; that the cases for each sitting should be arranged so as to bring topeden cases from the same easter or engishowbond; and the facts that the contraction of the

5. In fixing the judicial rent of a holding northing is more important, and nothing more difficult, than to determine, in those cases where it is necessary to do so, what improvements have been made by the tenant or his precessors, and what deduction should be made in respect of such improvements from what would otherwise be the fair rent to be paid for the holding, (37.)

For the determination of this question the evidence of valuators who have inspected the holding, and of witnesses acquainted with the history of the holding, and of the work done and money expended upon it, is requisite; and natural justice demands that a landlord, io order to be able to meet and check the case made by a tenant as to improvements, should have some means of knowing beforehand what that case is to be. At present he has none. He may, indeed, ask the tenant for information, but the tenant is under no obligation to give it. The laudlord may then apply to the Court in Dublin for an order on the tenant to furnish particulars. But there may not be time to obtain this order, and to have it obeyed before the trial; and, in addition to this, the landlord has to pay the costs of the application for an order, which are considerable. Under the Land Act of 1870, Section 16, and the rules made in pursuance of the Act, a tenant claiming compensation for improvements was obliged to fill up a form stating the particulars and nature of the improvements with the dates and amounts. It has been stated to the Committee that it might be difficult, and that in some cases it might be unnecessary, to append to the notice with which a case originates, the particulars of the improvements relied on. The Committee, however, think that the landlord should be allowed to serve on the tenant a notice, on a form provided by the Court, calling on the tenant to furnish, on a similar form, and within a definite time before the trial, the particulars of the improvements which he claims, and that if this notice is not complied with the Court should have power to enforce it at the expense of the party who has, without sufficient reason, disregarded the notice. The Committee did not understand from the Commissioners that there would

The Committee did not understand from the Commissioners that there would be any serious difficulty in a modification of the procedure to this effect. (Litton, 1489). And they have learned that since the evidence of Mr. Litton was given an ear when has been made subscribing the landsord to apply to the was given a new roll has been made subscribing the landsord to apply to the contract of the con

6. The Committee are of epinion that it is very important, in the interest as very all of the tenant as the landlord, that the Sub-commissioners, in fitting a judicial rent, should determine and record both the fair rent of the shelling absolutely, and also the tensa which they first intends be detected from this read to the holding, and the state of the state of

The Communities that this is or some time there are streamful of the constraint of t

7. It has been a subject of much complaint before the Committee that no statement or record is made by the Sub-Commissioners as to what are the improvements which they adjudicate to have been made by, and to belong to, the tenant, and also that in the great majority of cases no statement is made by them as to the ratio decidend or principle on which they proceed in settling a

As to the former of these complaints it is contended that it is the interest both both of the landlord and tenant to have it devided and placed upon record once for all what improvements upon the form has been made by the tenant in past times, and it is said that without such a record the authorship of row existing placed and the said that without such a record the authorship of row existing updated period of 15 years, and also that improvements existing at the commencement of the judicial period may be evalue be a legged to have been made. The Commistions have,

since the commencement of this inquiry, adopted a rule for the purpose of meeting this complaint, and that the Suh-Commissioners will henceforward be required to specify the improvements made by the tenant. (O'Hagan, 3746—3749)

As to the complaint that no ratio decidend is given, it is said that without some statement of resons neither parts is able to determine whether les should be satisfied with the decision, or should appeal; that there is no security that the various bulk-commissions are acting on the same principles; no evidence that they take into account matters which should be considered, such as deteriorizino of land of the contract of the considered, such as deteriorizino of land of the contract of the considered and transact, being active that the contract of the contract of the contract of the considered contract of the contract of the contract of the considered contract of the considered contract of the con-

and they think in particular that great advantage would arise from an altherance to the rule which has been found to beneficial in all judicial proceedings, the rule, namely of the judge satting the reasons for his decision. One of the Commissioners (Nr. Libera) produced to the Commissioners (Nr. Libera) produced to the Commissioners have proper made to the Commissioners have the proper support of the Commissioners have the commissioners of the proper support of the Commissioners have a proper support of the Commissioners have a proper support of the Commissioners have been properly as the commissioners have been properly as the commissioners have been properly as the commissioners and the properly as the commissioners and the proper in a similar from N. His answer wars.

- I am not prepared to say there would he any difficulty or objection to their doing so; I think it is worth considering. I would not like to say what might occur to Judge O'Hagan or to Mr. Verma, hut it does not occur to me that it would he very difficult (3965). Mr. O'Hagaa concurred in this opinion. (O'Hagan, 3769.)
- 8. The Committee have already referred to the costs to a hadowner of the proceedings before the Sub-Commissioners, anomating, it is stated, to from 10 t. to 13. in each case. Each party, according to the present course of election, as list to pay his own cost, and where an estate is devided into small in the case of an estate in settlement the treast for life is made by the Land Act the representative of the estate, but he is left to hear in his own person all the costs, which may exceed the value of his life interest in the amount in controvery. The Committee are of opinion that provision already has the cost and the cost of an estate in settlement to charge upon the settled entangle and the cost of t
- 9. The provisions of the Act of 1881, intended to facilitate the purchase by tenants of their holdings, were hy some persons looked upon as the most important, and by almost all as among the most important features of the legislation. The witnesses examined by the Committee, with the exception, perhaps, of Mr. Commissioner Litton, concur as to the great national henefit, political and social, which may be expected from an operation which would, on just and reasonable terms, convert a number of tenants in Ireland into proprietors of their farms This view, and the arguments in support of it, derive great additional force from the present condition of Ireland; the unexpected operation of the Act of 1881 upon the interests of owners of land in that country; the dislocation of the relations which have long subsisted between landlords and tenants, and the circumstance that it is no longer possible for landlords, by reason of this dislocation, to discharge the great public functions hitherto devolving upon them. All the witnesses, however, are agreed that, for reasons which the Committee will proceed to state, the present arrangements made to promote the purchases of holdings must be taken to have failed 10. Of (37.)

- 10. Of the reasons which have led to the failure of what are termed the "Purchase Clauses" of the Act, two are connected with the position of the
- landlord, and one, and that the principal reason, with the position of the tenant. A considerable proportion of the land in Ireland is subject to settlement. and the 25th section of the Land Act, 1881, provides that a "limited" owner may sell to a tenant, but the purchase money must be dealt with according to

the Lands Clauses Consolidation Act, the tenant taking the place of the " Promoters of the undertaking " under those Acts.

The effect of this would be that the purchase money would be paid into the Court of Chancery, and invested in Government Stock, thus materially reducing the income of the limited owner; and, furthermore, the expense of applications to the Court of Chancery for the payment into Court of the money, and for its investment and reinvestment, would have to he paid either by the "limited"

owner or (as appears to be the better construction of the Act) by the tenant. It is obvious that no sale by a limited owner is likely to be effected under these conditions. The Committee consider that the limited owner should have the power of selling; that the purchase money should be paid to the trustees of

the settlement, if there are any, and, if not, to trustees to be appointed by the Land Tribuual; and that the trustees should have power to invest the money on any of the securities on which trustees are authorized, either by the settlement or the general law, to invest, and pay the income to the limited owner. 12. The other difficulty connected with the landlord's title arises where the land is subject to head or quit rent, which is said to be the case with one-third

of the land in Ireland. There is no power to apportion the head rent, and the whole rent continues to be payable out of every holding into which the estate is divided. Under these circumstances the Commissioners insist, not unreasonably, that in order to make a security on which the money of the State may be safely advanced, the head or quit rent shall be redeemed. This the landlord, more especially if he be only a tenant for life, may be unable to do, and in any case he may be required to pay au unduly high rate of purchase.

The Committee are of opinion that power should be given to a tenant for life to redeen the head rent out of the purchase money, and that the Land

Tribunal should have authority, in any case in which an arrangement for that purpose can be made, either to apportion the head rent, or to indemnify a holding, called on to pay more than its share, by cross rights of distress against

the other holdings.

- 13. The main obstacle, however, to the working of the Purchase Clauses is, as all the witnesses concur in stating, the circumstance that, under the present arrangements, there is no sufficient inducement for a tenant to purchase his holding at any price at which the owner would be likely to sell it. The law has given to the tenant the right of applying to a court which hitherto has almost invariably reduced his rent, and it has conferred on him a practical fixity of tenure, and for 15 years at the same rent, together with the right of selling his tenancy. On the other hand, the conversion of the tenancy into ownership would, for 15 years at least, hardly give to the tenant any higher rights than he at present possesses; while the terms at present proposed for the conversion are such as would subject him from the outset to a yearly charge greater in amount than that which he now bears in the shape of rent.
- 14. The position of the tenant will be made more clear by an example. A tenant who pays for his holding 50 l. a year, agrees with his landlord to buy the holding at 20 years' purchase. For this he will therefore have to provide 1,000 l. According to the provisions of the Act he must himself find one-fourth of this amount, or 250 L, and the Government will advance the remaining three-fourths, or 750 L. Assuming that he borrows the 250 L, it must be taken to cost him not less than 5 per cent., and the Government advance is repayable by instalments of 5 per cent., spread over 35 years. Under these two heads his annual payment will amount to 50 L. But to this must be added the payments for poor rate and county cess, which will fall upon him as owner, and over above what he would pay as tenant, which on an average over Ireland must be placed at not less than 5 l. (Godley, 578.) The tenant would thus be subject to an annual charge of not less than 55 L, being an increase of 5 L or upwards above his present rent.

If the holding were sold at 24 years' purchase, the annual payment would be 65 $l_{\rm *}$, or 15 $l_{\rm *}$ above the present rent.

- 15. There is a concurrence of testimony that no scheme for converting tenants into proprietors which requires the tenant to pay down a portion of the purchase money, or to pay a yearly instalment greater than his rent, is likely to be successful; but thist, on the other hand, if these difficulties could be ruided, there would be a very general desire on the part of the tenance.
- 16. The Committee have had, therefore, to consider whether these difficulties can be avoided, and whether this can be done without loss to the State.

to become purchasers.

- 17. The Committee are waver that it has been suggested that the judicial reasts of holding should be fixed, as a test of their value, here's public money is advanced for their purchase. They think, however, that there are many the public purchase the purchase of their purchase of the indexenness of
- 18. The Committee are of opinion that the advances of the State for the purpose of finditioning purphases should be made at the rate of 3. Jpc ercut, and that the repayment should be by annual instalments of 34 per cent, and that the repayment should be by annual instalments of 34 per cent, spreading over 40 years, or of 4.1 per cent, pregraing over 40 years, whicheve term may be selected for the operation. They think that the land-thin the should be should b
- 19. The Committee will consider, in the first place, the effect which an arrangement on this basis would have on the position of the tenant, and will then examine the security for repayment which would be obtained by the State.
- 20. Taking the case previously supposed of a teast paying a rest of 50 l, and agreeing with his insuland for a sale at 20 years purshase, the tensus would make to the State an animal payment of \$3.4, being \$8.1 0.8, per cast, or of \$0.4, being \$4.1 0.8, per cast, or of \$0.4, being \$4.1 per cent. on 1,000.0. He would also be liable for \$1.4 being \$1.0 to \$1.0 to
- 21. Supposing the landford and tenant to have agreed to a sale at 22 years' purchase, the annual instituent to be paid by the tenant would, on the same basis of calculation, be 38 £ 10 s. or 44 £, making with the amount of additional tenantion a yearly charge of 43 £ 10 s. or 40 £. If the agreement was for 24 years' purchase, the annual instalment would be 42 £ or 48 £, and the total charge on the tenant 47 to ro 53 £.
- 22. The Urbound should in every case be satisfied that the sum to be advanced into the costs of the value of the interest sold; and the State would obtain to not in cross of the value of the interest sold; and the State would obtain to the cost of the second sold of sold of the second sold sold of the second sold of the second sold of the second sold s

viously to the Act of 1881, the tenant's interest has, since that Act, sold for prices varying from 7 to 17 years' purchase and upwards. (Scott, 2922—2993.)

- 23. The Committee may further observe that Mr. Golley, who, under the first Charch Commission, conducted with much success the largest conversion that has occurred in Ireland of tensus into owners of their holdings, giver it as who spins to the Committee that the whole purches money might be advanced by the State, and the "regiment spired over a number of years to so not to any loss to the State. (Golley, open—41).
- 24. Some apprehension has been expressed as to the effect of withfrawing from Irdenda I argue somal approach representing the exgregate of the installation of the expression of the substitution of the expression and approach of the installation of consider that under the most favourable elementaries the magnitude of the expression as to great as to lead to any serious of the expression of the expression of the data on the expression of t
- 25. The Countitee do not at present consider it to be desirable to express any opinion on the subject of arream of rest now existing, except so far as such arream are connected with the purchases of holdings. It is dorious that no may be effected they recommend that, where landled and tennat agree, the arream due on a holding before the 1st November 1881, not exceeding in all extraord used to the contrast of the contrast of
- 20. If a scheme such as the Committee have indicated is adopted for facilitating purchase by textual of their holdings, it may be expected that it will be it still be necessary that this work should be done by a public Court or Department, above, accountable, and specially adapted for the transaction of his period of the contraction of the contractio
- 27. In carrying into effect the chauges thus recommended, and the financial operations consciented with them, some rot inconsiderable expresses of management would necessarily be incurred. Looking at the great public object to be locally, and the proposition of the proposition of the proposition of the proposition of the purpose of an adequate portion of the surplus of the irich Chursel. Flux.
- 28. The Committee further think that if Parliament should, in order to meet a great rational difficulty and dangers, adopt measures which may lead to the conversion into proprietors of a large number of tenants in Ireland, the opportunity should be taken of raising the procedure between the tenant, the owner, and the Department, out of the ordinary rules which obtain on the coossion of sales and mortgages, more especially as regards costs.

A short statutory form of conveyance to the teams and mortgage to the State should be provided; the provisions of the Record of Title in Ireland should, if possible, be amended or enlarged, so as to embrace the titles when passed; a cheap system of local registry and transfer should be adopted; the costs both of landford and teams, once the landford has delivered a complete abstract of his title, should be covered by one small fixed charge, and the stamp duty on the transaction of sale and charge should not be required. 29. The Committee have reported the conclusions to which the cridence

The community may be consistent on the reporter, the conclusions to which the coldence where the cridence has been limited to the particular questions referred to the Committee, and that they have not thought it to be part of their days to omer upon the more general consistentials by which the scient of Pathmann will doubted the more general consistentials by which the scient of Pathmann will doubted that, the presentation above indicated should assume; the amount of the funds that abould root more to time be placed at the disposal of the Tribunal for such that abould root more to time be placed at the disposal of the Tribunal for such as the consistent of the Committee, and consistent the consistent of path of pathmann which the consistency and consistent to expect the consistency and c

30. And the Committee have directed the Minutes of Proceedings and the Evidence taken before them, up to the present time, to be laid before your Lordships.

28th April 1882.

ORDER OF REFERENCE.

Die Veneris, 24° Februarii, 1882.

LAND LAW (IRELAND).

Moved, That a Select Committee he appointed to inquire into the working of recent legislation in reference to land in Ireland, and its effect upon the condition of the country (The Viscount Hutchinson); objected to; and, after long debate, on Question, agreed in. Committee appointed accordingly.

Die Veneris, 24° Februarii, 1882.

Lund Law (Ireland): Select Committee on: Moved, That the Lords following be named of the Committee:

Duke of Norfolk
Duke of Source
Duke of Source
Duke of Marborough
Marques of Sishisary,
Marques of Abersor.
Earl Carrin.
Viscount Hutchimen.
Lord Tyrone,
Lord Carrifolt
Lord Kenry,
gomery,
Lord Pennance.
Lord Brahome.

After debate, agreed to: The Committee to meet on Tuesday next, at One o'clock, and to appoint their own Chairman.

Die Luna, 6° Martii, 1882.

The Duke of Sutherland added to the Select Committee in the room of the Earl of Clarendon.

Die Luna, 13° Martii, 1882.

The Evidence taken before the Select Committee from time to time to be printed for the use of the Members of this House; but no copies thereof to be delivered, except to Members of the Committee, until further order.

LORDS PRESENT, AND MINUTES OF PROCEEDINGS AT EACH SITTING OF THE COMMITTEE.

Die Martis, 28° Februarii, 1882.

Duke of Norfolk. Duke of Mariborough. Marnuss of Salisbure. Lord Tyrone.

Dake of Mariborough.	Viscount Hutchinson.
Marquese of Salisbury.	Lord Tyrone,
Marquess of Abercorn.	Lord Carvefort,
Earl of Pembroke and Mont-	Lord Kenry.
gomery.	Lord Pengance.
Earl Stanhope.	Lord Brahourne.

Order of Reference read

It is preposed that the Earl Cairns do take the Chair. The same is agreed to.

The same is agreed to.

The course of Proceeding is considered.

Ordered, That the Committee be adjourned till Taesday next, at Twelve o'clock.

Die Martis, 7° Martii, 1882.

Duke of Norfolk.

Duke of Someret.

Duke of Someret.

Marques of Shilzhury.

Marques of Ahertoen.

Earl of Pembrok and Montgomery.

Earl of Stander and Montgomery.

Lord Kenry.

Lord Penannee.

Lord Brabourne.

Lord Brabourne.

The EARL CAIRNS in the Chair.

Order of the House of yesterday, adding the Duke of Sutherland to the Committee, in the content of the Earl of Charundon.

Order of adjournment read.

The Proceedings of the Committee of Tuesday last are read.

The following correspondence between the Earl Cairns, Chairman of the Committee, and the Right Honourable W. E. Forster, M.r., is read:---

"My doar Mr. Feeters," "The Scient Constitute appointed by the Heurer of Lords to insight into the wellger." The Scient Constitute appointed by the Heurer of Lords to insight into the wellcommencement of their lengthy to have the benefit of your evidence, and they have directed us to commenced with type (Offen say more Fermal situation in gires), for directed uses to commenced with the Coffen say more fermal situation in gires, for one of their meetings. The Committee propose to meet again on Tucsity yier, March 7, at 12 global, the thry would be gold in minks arrangements to vertier you at any other

time that might as more convenient to you.

"The Committee wish me to add, in order to prevent misunderstanding, inasmuch as it appears to have been stated that the proceedings of the Committee may affect the judicial administration of the Act, that the Committee do not consider it to be within the scope of (37.)

the reference made to them by the House to inquire into the question of the correctness of any decision which the Land Commissioners, or the Sub-Commissioners, in the exercise of their judicial functions, may have arrived at.

"M. h. forster, on. deep size."

"My dear Lord Cairna."

"I march 1882.

"I only this morning received your letter respecting my attendance to give evidence.

"I only this morning received your reture respecting my automation to give evisione before the Lords (Committee on the Land Act.

"As soon as I get bank to London I will write you again, but I fear important official butiness will detain me in Irelaud for a few days; and I am sure you will not be surprised at my saying that I think I ought to communicate with my colleagues before sending you

Copy of Telegram from Right Honourable W. E. Forster, M.P., to the Earl Cairns.
"Since writing to you I have learned views of my colleagues, and most respectfully say
I cannot consent to attend Committee."

The following Witness is called in, and examined, viz., Mr. Devis Godley, c.B. (side the Evidence).

Ordered, That the Committee be adjourned till Thursday next, at Twelve o'clock.

Die Jovie, 9° Martii, 1882.

Duke of Norfolk.	Earl Cairns.
Duke of Somerset.	Viscount Hutchinson.
Duke of Sutherland.	Lord Tyrone.
Marques of Salisbury.	Lord Carvefort.
Marquess of Abercorn.	Lord Kenry.
Earl of Pembroke and Mont-	Lord Brabourne.

gomery.

The Earl Cairns in the Chair.

Order of adjournment read.

a definite reply to your letter.

The Proceedings of the Committee of Tuesday last are read.

The following Witnesses are called in, and examined, viz., Mr. Denis Gedley, c.s., and Mr. Hugh Steward Moore (wide the Evidence).

Ordered, That the Committee be adjourned till Tuesday next, at Twelve o'clock.

Die Martis, 14° Martii, 1882.

Duke of Norfolk. Duke of Semerset. Duke of Semerset. Duke of Marborough. Duke of Suthbrough. Duke of Suthbrough. Lerd Cyrone. Manquese of Schlebury. Manquese of Abstrown Manquese of Abstrown Lerd Cyrone. Lerd Cyrone. Lerd Cyrone. Lerd Semry. Lerd Semry. Lerd Lerd Brahouruse. Lerd Brahouruse. Lerd Brahouruse. Lerd Brahouruse. Lerd Brahouruse.

The EARL CAIRNS in the Chair.

Order of adjournment rend.

The Proceedings of the Committee of Thursday last are rend.

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(vide the Evidence).

Ordered. That the Committee be adjourned till Thursday next, at Twelve o'clock,

Die Joris, 16° Martii, 1882.

LORDS PRESENT :

Duke of Norfolk.	Earl Cairns.
Duke of Somerset.	Viscount Hutchins
Duke of Marlborough.	Lord Tyrone.
Duke of Sutherland.	Lord Carysfort.
Marquess of Salisbury.	Lord Penzance.
Earl of Pombroke and Monta	Lord Brahourne.

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Tuesday last are read,

The following Witnesses are called in, and examined, viz., Mr. Simos Little and Mr. Charles Uniacke Townshend (vide the Evidence). Ordered. That the Committee be adjourned till Tuesday next, at Twelve o'clock.

Die Martis, 21° Martii, 1882.

LORDS PRESENT :

Duke of Somerset.	Viscount Hutchinson.
Marquess of Salisbury.	Lord Tyrone.
Marquess of Abercorn.	Lord Kenry.
Earl of Pembroke and Mout-	Lord Penzance.
gomery.	Lord Brabourne.
Earl Stanhope,	

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Thursday last are read.

The following Witness is called in, and examined, viz., Mr. Murrough O'Brica (vide the Evidence).

Ordered, That the Committee be adjourned till Friday next, at Twelve o'clock.

Die Veneris, 24° Martii, 1882.

LORDS PRESENT:

Duke of Somerset.	Viscount Hutchin
Marquess of Salisbury,	Lord Tyrone,
Marquess of Abercorn.	Lord Carysfort.
Earl of Pembroke and Mont-	Lord Kenry.
gomery.	Lord Brabourne.
gomery. Earl Stanbope,	

The EARL CAIRNS in the Chair.

Order of adjournment read.

The Proceedings of the Committee of Tuesday last are read. ь з (37.)

PROCEEDINGS OF THE

The following Witnesses are called in, and examined, viz., Mr. George Fottrell, jun., and Mr. Robert Orr (wide the Evidence).

Ordered, That the Committee be adjourned till Tuesday next, at Twelve o'clock.

Die Martis, 28° Martii, 1882.

Duke of Norfolk. Duke of Somerset.	Eurl Stanhope. Eurl Cairna.
Duke of Satherland.	Viscount Hutchins
Marquis of Salishury.	Lord Tyrone.
Marquis of Abercorn.	Lord Carysfort.
Earl of Pembroke and Mont	Lord Kenry.

The Earl Calens in the Chair. Order of adjournment read.

The Proceedings of the Committee of Friday last are read.

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The following Witnesses are called in, and examined, viz., Mr. John William

Scott and Mr. John Young (vide the Evidence).

Ordered, That the Committee he adjourned till Thursday next, at Twelve o'clock.

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Die Jovis, 30* Martii, 1882.

LORDS PRESENT:

Duke of Somerset.	Viscount Hutchins
Duke of Mariborough.	Lord Tyrone.
Duke of Sutherland.	Lord Carysfort.
Marquess of Salisbury.	Lord Kenry.
Marquess of Ahercorn.	Lord Brahourne,
Earl of Pembroke and Mont-	

The EARL CAIRNS in the Chair,

Order of adjournment read.

Order of adjournment read.

The Proceedings of the Committee of Friday last are read.

The following Witness is called in, and examined, viz., Mr. Edward Falcourt Litton, q.c. (voic the Evidence). Ordered, That the Committee be adjourned till Tuesday, 25th April, at Twelve

o'clock.

Die Martis, 25° Aprilie, 1882.

LORDS PRESENT: Duke of Norfolk. Earl Cairns.

Duke of Marlborough,	Viscount Hutchin
Duke of Sutherland.	Lord Tyrone.
Marquess of Salisbury.	Lord Carvefort.
Earl of Pembroke and Mont-	Lord Kenry.
gomery.	Lord Brabourne.

The EARL CAIRNS in the Chair,

The Proceedings of the Committee of Thursday, 30th March, are read.

The following Witnesses are called in, and examined, viz., Mr. Justice O'Haqua and Mr. John Edward Verson (vide the Evidence).

Ordered, That the Committee be adjourned till To-morrow, at Twelve o'clock.

Die Mercurii, 26° Aprilis, 1882.

LORDS PRESENT :

Duke of Norfolk. Duke of Marlborough Earl Curns. Viscount Hutchinson. Marquess of Salisbury. Earl of Pembroke and Mont-Lord Kenry Lord Penzance. gomery. Earl Stanhone. Lord Brabourne.

The EARL CAIRNS in the Chair, Order of adjournment read.

The Proceedings of the Committee of vesterday are read.

The following Witness was called in, and examined, viz., Mr. John Educard Vernsu (wide the Evidence). Ordered, That the Committee be adjourned till Friday next, at Twelve o'clock.

Die Veneris, 28° Aprilis, 1882.

LORDS PRESENT :

Duke of Norfolk. Earl Cairns. Duke of Marlborough. Viscount Hutchinson Marquess of Salishury. Lord Tyrone. Lord Carysfort. Earl of Pembroke and Montord Kenry. gomery Earl Stanhope. ord Brahonrae

The EARL CATENS in the Chair.

Order of adjournment read. The Proceedings of the Committee of Wednesday last are read.

The following Witness is called in, and examined, viz., Mr. J. Stanislans Lunch (vide the Evidence).

A DRAFT REPORT is laid before the Committee by the Chairman.

The same is considered, Amendments are made therein, and the Draft Report as amended is agreed to (vide the Report).

Ordered. That the Lord in the Chair do make the said Report to the House.

MINUTES OF EVIDENCE.

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LORDS PRESENT:

Duke of Norder.

Duke of Somerset.

Marquess of Salisdury.

Marques of Americons.

Lord Caryspory.

Earl of Penbroke and Montgomery. Lord Penzance. Earl Stanhope. Lord Brahourne.

THE EARL CAIRNS, IN THE CHAIR.

Mr. DENIS GODLEY, c.s., is called in; and Examined, as follows:

- Chairsaan.] You have had, as we know, long official experience in Ireland; when were you appointed Secretary to the Church Temporalities Commission?
- On the 1st of January 1870.
- 2. Do you still continue Secretary to that Commission? That Commission now forms part of the Land Commission, and I am Secretary of that Commission, in so far that I am Secretary of the Land Commission, in which it is now included, the two being one.
 - They are incorporated?
 - 4. May we ask you what is the salary of the office?
 - The salary of my present office is 1,000 l. a year. 5. That is for the complete office ?
 - For the complete office.
- Would you be good enough to state to the Committee what are the duties
 of your office as Secretary to the Land Commission?
 In the first place, the whole of the correspondence comes into my department;
- it is the divided amongst the several branches of the office, some going to the Registry, some going to the Church Property Department, and some going to the Accountant's Branch; in fact, to the various branches of the office.

 7. Perhaps it would be convenient if you could give us the branches or
- departments into which the office is divided?

 There is the Secretariat proper, the Judicial Registry, the Records, the Accounts, the Purchase and Sale of Land, the Legal Department, and the Church Property Department.
 - Earl Stanhope.] Are the Records and the Registry the same?
 No.
 - g. Chairman.] Is there a head to each of those departments?
 - 10. What is the office of the head called?
 In the Secretary's Department, under me, is the Assistant Secretary.

 (0.1.)

7th March 1882.] Mr. Gontey. [Continued.

11, You are the head of the Secretariat Department?

Yes, and I have a general superintendence of all the other departments. The head of the Accounts Branch is called the Accountant; the band of the Registry as called the Recupitant; the band of the Records Department is called the Keeper of the Records; the head of the Curvel Property Branch is called Superintendent of Church Property; and the head of the Purchase and Sale of Land Department is called the Unité agent under Part V, of the Act.

12. Were the appointments of the heads of those departments all new appointments for the Land Act, or were they taken over from the Church

Temporalities Commission ?

The Accountant was an officer under the Church Temporaltics Commission; the Superintendent of Church Property was our Collector under the Church Temporaltics Commission; the Registrar is a new appointment; the chief agent for the sale of land under Part V. of the Act was an officer under the Church Temporaltics Commission; the Keeper of the Records is a new appointment.

13. What is the system on which the business of the office is conducted? The first operation of the day is the arrival of the letters, and they are dis-

tributed amongst the overall franches to the beath of the different departments. As far is as the correspondence goes, most of the drafts of the lesters are substitled to no for Inspection before they are written from all the departments. But is most count they are not; that it so any when the head to to consult use; but the inspectant letters from all the branches are also yes submitted to no few approved. Then the letters are written in the different and the substitution of the substitution of the substitution of the consultation of the substitution of the substitution of the substitution of the constant letters are substituted by the substitution of the substitution of

14. Then I suppose we may take it that the extent of the superintendence which you exercise over the other departments is that of your superintendence of the letters?

Not only that. Every one of the heads of the departments comes and consults me personally upon every point upon which he has any difficulty, or which he thinks of importance, besides sending me his letters to sign, or the drafts of his letters to approve, and I have a great deal of business in that way.

15. Is the Lend Commission Court a court of record?

of all the books that are kept there.

orders are made up and recorded in the registry.

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Under the 3rd Sub-section of the 48th Section of the Act, "all proceedings before a court of record."

16. What books of record are kept in each department; I do not speak of

the books in the Accounts Department; those would of course be books of account?

account?
In the Secretary's Department there is a letter book in which all the important letters are copied; and in all the departments there are books of that sort.
Then in the Judicial Registry there are books for entering all the cases which follow the service of originating notices, I am afield to ould not give you a list

17. Marquess of Salisbury.] Does not that come before you? I am sirald I cannot recollect at this moment all the books that are kept, but I can give you an idea of them.

18. Chairman.] Perhaps we might save you trouble by asking you to coofine you attention for a moment to what may be called the Department of the Chael Commissioners, the department in which they preside; would you call that the Judicial Registry? Yes; in their judicial capacity the registry is their principal office. Their

10. Then

7th March 1882.] Mr. Gonley. 10. Then all their orders would be in the books of the Registry?

20. Marquess of Salisbury.] And the proceedings on which those orders were

founded 3 Yes, they would all be in the Registry. I have bad a memorandum made of the business of the Judicial Registry which, with the permission of the Committee, I will read: "The Judicial Registrar's Department comprises three branches under the general control and superintendence of the Registrar; 1. General Office, 2. Assistant Registrar's Office, 3. Affidavit Office, 4. R-gistrar's Office (personal). The business of No. 1 consists in the reception of all originating and other notices forming steps in the proceedings in each case; the entry of these and of all orders made in the several cases in the county case books; the keeping of the files of ench case until disposed of or sent for adjudication. The business of No. 2 consists in the preparation of all the lists of cases for hearing before the Chief or Suh-Commissioners, sending out the notices of hearing to all parties to or appearing as interested in, every case : the answering of all inquiries connected with the proceedings in the cases, and the general practice of the Commission and the progress of business; the care of all documents in cases withdrawn, disonissed, and postponed from Sub-Commissions. The business of No. 3 consists in the receiving and filing and care of all affidavits and notices of motions to the Court, the recording of all orders made in cases not actually pending in Court (e.g., orders made as to services of notices required by Rules 82 and 87); keeping a record of all notices of appeals and preparing the lists of appeals for the hearings and the receiving and custody of all surveys required for such appeals; the reception, stamping, and delivery of all copies of orders bespoken by the public, and the preparation and delivery of all copies of affidavits so bespoken. The business of the Registrar consists primarily in the preparation of the daily lists of cases; of attendance in court on each day on which the Court or a Commissioner sits, taking down notes of all proceedings in court and all orders made, and transcribing the same : drawing up every order in proper form; entering and filing same, and generally in superintending and giving all necessary directions as to the lasiness of the department, and answering all special inquiries, and giving such information as is constantly required by professional men and the general public."

21. Chairman. What is the name of the Registrar?

Mr. Smith 22, Was be an officer of the Church Temporalities Commission?

No; he is a new appointment. 23. What is his profession?

He is a barrister.

order.

24. With regard to communications between the Chief Commissioners and the Sub-Commissioners; do they pass through your office or through the Judicial Registry?

Through the Secretary's Office.

25. Are they in the form of letters? They are all in the form of letters.

26. I rather gathered from what you read that what you term the "originating notices" come up to Dublin and are in the Judicial Registry Office first?

I thought that was a question likely to be asked, and I made a memorandum of the progress of an originating notice through the office, which I think will answer your Lordship's question. The secretary, or his clerks, upon receiving the notice, marks it by a stamp, with the date upon which it was received, and sends it without delay to the Registrar's Department, where the substance of the notice is entered in the county register of applications. Notices are entered and numbered according to the date of receipt, and the cases are remitted to the Suh-Commissioners for adjudication in the like

(0.1.)A 3 27. Lord 7th March 1882. Mr. Godley. [Continued

27. Lord Tyrone. | May I ask whether that has been the rule from the first?

28. Has it been adhered to from the first?

So far as possible it has. I caunot say that there have been no exceptions; exceptions are now made in cases of evictions. If it is proved to the satisfoction of the Commissioners that a man has been evicted, and that his time of redemption is running out, they would take that case up at once, so that the man should have his judicial rent fixed before the period of redemption had run out, with a view to the sale of his holding. That is considered convenient in the interests of both landlord and tenant,

20. Marquess of Salisbury.] When was that order made? That order has been in operation for, I should think, the last two months; but I cannot speak with absolute certainty as to that.

30. Chairman.] How does that order work; must a tenant who is evicted

apply to the court in Dublin to have his case taken out of its turn?

That is, no doubt, the formal way of doing it, with notice to the opposite party; but I do not think the Commissioners require that. If they are satisfied that the n.an is evicted, and that the time of redemption is running out, they would then order his case to be taken up out of its turn.

31. But who moves them to order it :

An application from the tenant would cause inquiry to be made.

32. Then does the tenant make the application without notice to the other side ? The Commissioners would not take his case out of its turn without notice to

the other side. 33. Is the application mode to the Commissioners or to the Sub-Commissioners ?

To the Commissioners; the Sub-Commissioners have nothing to say to it. 34. Have the Sub-Commissioners any power to change the order of cases? None. A printed list of cases is sent down to them from the court in Duhlin

to each town in which they are to sit, and they have no power to alter the order. When those cases come before them, they have power to adjourn them for proper cause; but they must hear the cases in their order. 35. They must call the cases on in order?

Yes.

the case would be taken out of its turn.

36. And if there is reason for adjourning one case you say they can do it? Yes.

37. Lord Penzance.] Is the matter that you have just been speaking of embodied in an order, or is it only the practice of the Commissioners It is only the practice of the Commissioners,

38. You mentioned an order; there is no order drawn up to that effect? No.

39. Marquess of Salisbury. Is there a special order in each case, or is it done informally by a letter from you; do the Commissioners formally order that case B. shall he taken before case A., or do you simply write down that you

think it more convenient that case B, should be taken before case A,? There is no special order; it would be done by letter. Both parties would be informed that, in consequence of the Commissioners being satisfied that an eviction had taken place, and that the period of redemption was running out,

40. Would there he a record in the Minute Book of this order on the part of the Commissioners? No, that would he in the shape of a letter.

41. Chairman.

7th March 1882.] Mr. Godley. [Continued.

41. Chairman.] I do not think you quite understand my noble friend's question: but I gather from what you said just now, that the list of cases is made

out in Dublin?
Yes.

42. Therefore, is it the case that the Commissioners, if they see by reason of an eviction, any ground, as they think, for changing the order, make the altern-

tion themselves in the list in Dublin before the case is sent down into the country?

Yes, or they would add a name to the list if they were satisfied that an exiction had taken place.

43. But the list when it leaves Dublin is settled in the order in which the cases are to be heard in the country?

Exactly.

44. Therefore the list itself would be the record?

45. Marquess of Salisbury.] But then they alter the list after it has left

you.'
Only in a very special case; as a rule, the list scut from Dublin is the list of cases; the instances in which any change is made are very few indeed.

46. Lord Brabourne.] Is eviction the only instance of exception to the general rule of taking the cases by priority of application?

rate of taking the cases by priority of application?

I think so, It is difficult for me to recollect, because there have been some cases in which there were other exceptional circumstances; but the rule is to

cases in which there were outer exceptional circumstances; but the rule is to take cases in their order as they are received, and not to change the list.

47. It would not be done in case of excessive rental, or excessive hardship, or anything of that kind?

Certainly not.

48. Marquess of Sallibury.] What notice does the landlord receive of the change, if the list is changed?

where there is a change made that would be communicated.

49. But I mean what notice does the landlord receive before the case comes

on?

That I could not say. The moment the application is received and acceded to, the landlord would be communicated with; and if the landlord showed

reason why the case should not be taken out of its turn; for instance, if the tenant had misinformed the Commission, then the case would not be put into the list.

50, Chairman.] How often are those lists for the countles made up, and

sent down into the country?

Three weeks before the sitting of each Sub-Commission the list of the cases

that will be heard is printed and circulated, and that printed list is sent to all the parties concerned, that is the landlord and the tenant, or the solicitor of either party.

So that they cannot to have at all events, three weeks' notice?

51. So that they ought to have, at all events, three weeks' notice? Yes. Perhaps at the heginning of the Commission they may not have had so much, because things were not so well managed; but now I think that a

case is never tried without three weeks notice. The lists are circulated in print three weeks before the hearing.

52. Lord Penzance.] Do I rightly understand you that when these cases are

put out of their order, which sometimes happen, it is always done in consequence of some public application to the Commissioners?

Not a public application, but if a tenant wrote to the Commissioners stating that he had been exieted, then, if the Commissioners were satisfied that it was

so, they would order his case to be remitted to the Sub-Commissioners out of its turn.

(0.1.) A 4 53. Would

53. Would they do that without communicating with the landlord?

No, they would communicate with the landlord; but if the Commissioners were satisfied that the criction had taken place, and that the time of redemption was running out, I think that even if the landlord objected they would still send that case for trial.

54. But would they give the landlord notice, so that he might question the fact? Certainly.

55. Duke of Norfolk.] Would the landlord have any opportunity of urging an objection to its heing taken out of its course? Yes.

Yes.

56. Marquess of Abercorn.] Would they at all times give a landlord sufficient

opportunity to get a valuator down?

It would be a good reason, I think, for the Sub-Commissioners adjourning the case if they were satisfied that the landlord had not had time to do that.

57. Chairman.] Supposing that after the list has gone down into the country, giving, as you as,' three week's 1000s, a femant applies or writes to your office and says, "I have heen evicted and my time is running out, and my ness will not be learl, in the natural course of things, until steve the time of rednaption makes the same of the

upon is which had not been inserted before? I mish that if the man had only They would be very relucious to do that to man before the read only They would be very relucious to do that to man before this priest of an instruction had passed, they would only take our that his case should be tried before the priest of redeepington had expired. But if the period of redeepington was almost group, for leastance, if it was in the sixth meanth, they would then add in the case was heart, if then that the period of redeepington dends expire before which case was heart.

53. Marquess of Salisbury.] But then there might be less than a month's notice to the laudiord, there might be n very short notice?

If the period of redemption had almost gone, I think they would, no doubt, remit that at once. 50. And they would shorten the notice to the landlord in order to bring the

case on before the period of redemption had expired?
Yes, I think they would.

60. Hus there ever been less than a fortnight's notice to the landlord? I should be afraid to say; there is such an enormous number of these cases.

61. Has the case happened very often? Having regard to the enormous number of cases and objections and corre-

spondence of all sorts that come before me, I could not plodge myself absolutely; but I can only tell you what the general practice is.

62. Have the Commissioners ever acted upon threats of eviction? No.

63. Chairman.] Can you state whether, in point of fact, there has been any case where there has been an eviction as to which there has not been an opportunity of the company that there for redempting ran out?

tanity of trying it before the time for redemption ran out?

I do not think there has been any case in which a man's period of redemption had expired and his interest was gone.

64. You have not heard of any case of that kind?
No. I think I ought to add that the Commissioners have the power of

No. I think I ought to sent time the Commissioners have the plotter of extending the period of redemption.

65. Is that under their Act or under the general law?

I think that, under their own Act, they have the power of extending the

регю

7th March 1882.] Mr. Godley.

period of redemption; and it is in the interest of the landlord as well as of the tenant, that they should not exercise the power which they would be called upon to exercise if the period of redemption was run out, and if the hearing of the case was not coming on; because that exercise of power would merely leave the question between the landlord and the tenant pending.

- 66. Lord Tyrone.] Was not that so only in cases that came forward on the first hearing?
- No; they have the power under all circumstances.
- 67. Marquess of Salisbury.] Have they ever exercised the power of extending the period of redemption? I think they have, certainly.
 - 68. Have you any list of the cases in which that has been done?
 No: but now that I reflect for a moment, I think that the Commissioners
- No, but now that I reacce for a moment, that is to say, supposing that the tenant owed three or four years' rent, they would extend the period of redemption on condition that he paid, within a fortnight, one year's rent.
- 69. Chairman.] We have seen reports of that kind in the papers, that the Commissioners have extended the period of redemption on terms of paying down a certain portion of the arrears of rent? It has been done.
- 70. You have spoken of the county lists which are sent down to the Sub-Commissioners in the country; supposing that the Sub-Commissioners proceed at one of their sittings with that list, and hear, we will say, a dozen or two
- dozen cases, leaving a good many unheard, what hecomes of the residue?

 They are "remanets," and the rule is to take them first at the next sitting of the Sub-Commissioners in that town.
- 71. Marquess of Salisbury.] I suppose the size of the list is proportioned to the amount of time which the Suls-Commissioners are supposed to have at their disposal; you do not send down all the cases that there are in that particular district, but only so many as you think, within the time that the Commissioners
- district, but only so many as you think, within the time that the Commissioners are sitting, they will be able to dispose of?

 We send more than we should if it was a certainty that they would all he heard. For intrance, we send of cases down, knowing that the Sub-Commission would not be able to try more than 25; but that is in case those that come first on the list should drop out of it; lest the Assistant Commissioners should from the commissioners when the commissioners where the commissioners when the commissioners where the commissioners when the commissioners where the commissioners where the commissioners when the commissioners where the commissione
- get through the list too fast.

 72. But still there may be 200 more for the same district?
- Certainly.

 73. Lord Brobourne.] I suppose the Sub-Commissioners might sometimes make private arrangements with regard to the cases?
- The Sub-Commissions must exercise a certain discretion.

 74. Chairman | After the list is sent down, when a case is settled between
- landlord and tenant without the intervention of the Court, what is done with that case, is it struck out of the list? If the kaudlord and the tenant come to the Sub-Commissioners and say that
- If the laudiord and the teriair come to the sur-commissioners and say that they do not wish to go on with the originating notice, having agreed out of Court?
 - 75. If they should say that they do not wish to go on, if the tenant wishes to withdraw the case, or if he and his landlord come to terms about the altered rent, what is done?
- What the Commission insist on is that the originating notice shall be withdrawn with the consent of both parties, notified to the office in Duhlin. If they delay making that notification to the office in Duhlin, and merely go before the (0.1.) B Sub-Commissioners,

7th March 1882.] Mr. GODLEY. Continued.

Suh-Commissioners, saying that they have consented, in that case probably the Suh-Commissioners would merely adjourn it; they would not hear anything then

76. Would they adjourn it? I do not know what the technical term would be; but they would certainly

not hear it. 77. But that hardly meets the question that I want an answer to. I was supposing that there was a list of 50 or 60 cases before a particular Suh-Commission, and that towards the end of the sitting three or four of the cases are

settled between landlord and tenant; do they remain on the list as active cases, that is to say, cases that have to be heard; or is any steps taken to strike them out and get rid of them ? It depends upon how the parties act. They can come in and agree to a rent hefore the Sub-Commissioners, and then if they come forward and state that

10

they have agreed, it is registered as being made by consent of the Court, and it becomes an order of the Sub-Commissioners. 78. And they put the Court in possession of the facts? Yes, we have a regular form for that. A consent order is made. There are

two ways of getting the rent fixed out of Court; they can agree upon a judicial rent upon one of our forms which is sent direct to the head office, in which case they do not go to the Suh-Commissioners at all; another way is that when an originating notice has been served and there is a suit pending, they can go to the Sub-Commissioners and get the rent which they have agreed upon made an order of Court, and the Sub-Commissioners then send it up to us at the head office.

79. Lord Penzance. And that is an end of the suit? That is an end of the suit.

So. Chairman.] It has been stated that there have been cases in which the Suh-Commissioners have taken five or six cases out of one property and adjudicated upon them, and then passed over other cases upon that property and gone to another property and taken five or six cases upon that property and taken five or six cases out of that; is that consistent with your knowledge?

The Suh-Commissioners must follow the list which we send to them. 81. Supposing that there is a list of 50 cases, and that there are 10 cases

belonging to one property at the top of the list, would they take a few cases belonging to that property and pass over the remainder? I should think certainly not. I have not heard of any such cases,

S2. Marquess of Salisbury, Do they send up an account of all they do day

hy day? Yes, every day. 83. Lord Brabowns.] If they did such a thing as that, would they be acting

contrary to the orders of the Chief Commissioners? Yes, the orders of the Chief Commissioners are to take the cases straight

down, except that if one landlord happen to have two or three cases at the top of the list and two or three cases further down, I presume that, with the consent of all parties, they might try all those cases together.

84. But without such consent they would go regularly through the list? Without such cansent they would go through the list in its regular order.

85. Viscount Hutchinson.] Would they send up an account every day of what they had been doing? Ýes.

86. Is there any particular form in which that account is sent up? They send up all their orders.

which they send up the account of their proceedings?

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87. Chairman. Is the order which they have actually made the form in They

7th March 1882.	Mr. GODLEY.	[Continued.
They send up three t	things to us; they send up the ori	ginating notice which

order. The minute of order contains statistics for the use of the office.

88. Will you hand in samples of the minute of order, and of the order? Yes. (The same are handed in.)

89. Is the originating notice kept in Dublin?

Supposing that the tenant commences the suit, he serves one copy of the originating notice upon the landlord; he sends one copy to Dublin and keeps one copy himself. The copy that he sends to Dublin is sent down to the Sub-Commissioners, and theo it comes back with the minute of order and the order. The three papers come back together.

90. Before you part with it, do you not keep a copy in your Record Book in Dublin? The substance of the originating notice is entered in the County Case

Book. o1. Only the substance?

Only the substance.

02. Lord Brabourge. Then is the minute of order the account of the reasons of the Sub-Commissioners, or the statistics upon which they have founded their decision? No, it is not.

93. Chairman.] In the minute of order there are two items, viz., "Tenement Valuation in Originating Notice," and "Tenement Valuation admitted by Cou-

sent;" what is the difference between those two? I presume that if the tenant who ought to insert the tenement valuation in the originating notice has omitted to do so, the tenement valuation might be

admitted by both parties and handed in to the Sub-Commissioners. 94. Or if it had been erroneously inserted? Yes, that would be another reason.

or. But the tenement valuation is an official document, is it not?

Yes, but the tenants sometimes fill up their own originating notices. 95. This being an official document, what necessity is there for the words

"admitted by consent"? Perhaps the tenant having omitted to fill in the valuation at the proper

place, the Sub-Commissioners may not at the moment have the means of doing it themselves, and then they would ask both parties, and would take evidence, I presume, as to what the valuation was.

97. Then there is an item here, "Value of tenancy, £ always filled up? I do not think they always fill that up. I think the Act and the Rules permit the suitors to call upon them to fix the tenancy.

98. It is not a necessary ingredient in the judgment? I think not. I think the words of the Act are, that on the application of the

parties they may fix the value of the tenancy.

99. Lord Tyrone.] Is there any item in any of these forms stating what is the value of the tenants' improvements that are taken notice of by the Sub-Commissioners' Courts? No.

100. There is no provision made for giving a return of that sort to the Chief Commissioners? There are so many rules that it is difficult for me to recollect them all.

101. Chairman.] There does not seem in that minute of order to be any reference to improvements at all? No; I cannot be certain, but I do not think that there is any record in the

decisions B 2 (0.1.)

7th March 1882.] Mr. GODLEY. [Continued.

decisions that come up at present to the head office of the value that the Sub-Commissioners put upon the tenants' improvements.

- 102. Lord Tyrons.] I did not ask whether there was any record, but whether there was any provision made to furnish a record in any of the returns? I think not.
- 103. Marquess of Salisbury.] It is not put down on paper, then, at all, that the tenants' improvements have or have not formed part of the considerations on which the fair rent was fixed?
- I think not, but I will inquire into that.

 104. Is there any formal notice of claim on the part of the tenant as to the amount which he requires his rent to be reduced by reason of improvements?
- amount which he requires his rent to be reduced by reason of improvements?

 No, that is a matter of evidence before the Sub-Commissioners.
- 105. He does not previously make any allusion to his improvements? No, that is all a matter of evidence; he supports his view of the case by evidence before the Sub-Commissioners.
- to 6. Does he give the landlord no notice of what improvements he intends to claim as his own:
- No.

 107. Lord Penzance.] Is the landlord, when he comes into Court, entirely ignorent of the mode in which the tenan: is about to support bis claim?
- Entirely.

 108. He does not know whether it is in respect of certain improvements, or, if so, what the value of the improvements is or when they was made?
- if sn, what the value of the improvements is, or when they were made?
- 109. It is a general claim for reduction of rent, to be supported by such evidence as the teoant chooses to put forward at the last moment? Exactly.
 110. Chairman. Does it not strike you that there may be some difficulty.
- hereafter, in consequence of this practice; supposing, for fastunce, that a purticular improvement had been letyly made upon a holding, and that the Sub-Commissioners made a reduction in respect of it, from what otherwise would be the result and property. He Is you may, which belove the the jointical herm, the property is the property of the property of the property of would it be assertained at the end of the 15 years whether this from of improvement leady under war over and not taken into account a second time? I upon this occasion, so that it might not be taken into account a second time? I made the property of the propert
- 1111. Lord Pensence.] But according to your present impression of the mode in while the matter is now conducted, if it becomes important, subsequently, to look back upon what has been done upon any of these occasions, there is no means of ascertaining from the documents whether the Commissioners have taken into consideration any improvements, nr, if they have, of the value of the improvements which they have taken into their consideration?
 - My present impression is that there is not.
- 112. Lord Tyrone.] It has been stated, as you know, here, that this court is a court of record; would not that, in your opinion, be clearly one of the points which ought to be recorded?
- It has been presented to me for the first time, and I do not think I should like to say so at once, because if the Commissioners decided otherwise, I am of course bound to think that their decision is right. I would rather not give an opinion upon the point in fact. I have nothing to say to the fixing of judicial rents.
- 113. Lord Brabourns.] But you can state that the practice and the rule of the Act of 1870, by which a tenant seeking compensation for improvements was

13

7sh March 1889.7 Mr. Gontry Continued

oblived to send in a statement of claim to his landlord is not the rule under this new Act? It is not

114. Earl Stankope.] Has that provision of the Act of 1870, obliging the tenant to give notice to the landlord of his claim for compensation, been renealed or altered in any way by the late Act?

I presume, if I am right in saving, that there is no paper put forward on which their improvements are stated, that no nutice is taken of that section in the Act of 1870. 115. Chairman. I I should like to know exactly what the practice is ; can you

tell us whether there is any practice with regard to requiring a tenant before the trial to furnish porticulars of the improvements which he alleges were made hy him or by his predecessors in title?

There is nothing called for from him on paper; that is a matter of evidence upon the trial.

2.6 Refore the trial is there no practice which obliges the tenant to specify some details upon that subject, or can be be called upon by an order of the Court to do it?

An order of the Court can be made requiring particulars from either the landlord or the tenant.

117. What is that order? An order of the Court requiring particulars to be furnished. The Court bas

118, Viscount Hutchisson.] Have they exercised the power in certain cases ?

I think they have.

119. It is not in the rules, I think? I do not recollect that it is.

120. I think it is only an order of the Court made in a particular case? Yes; I think that is so.

121. Chairman.] Is this the order that you refer to, the 99th Order: " Either party may demand from the other, before the hearing of such application, and, if necessary, may apply to the Court for particulars of the case intended to he made either as to increase of value by means of improvements, or diminution of value by dilapidation of buildings or deterioration of soil ?"

The 99th Order refers to an application to vary the amount of the specified value of a tenancy. The order I above referred to is merely an order made in a particular case when brought into Court.

122. How does that work? Supposing that the landlord wants to obtain from the tenant particulars of the improvements that he intends to rely on, he must apply to the Court in Dublin?

He must apply to the Court in Dublin; because, although I do not think it is the custom, I have known one or two cases in which the landlord has required from the tenant a statement of the improvements in respect of which he claimed that the rent should be reduced, and I think the tenaut disregarded them, and was entitled to disregard them unless there was an order from the Court requiring him to furnish them.

123. Then the tenant is at liberty to disregard any personal application to him, and the landlord must apply to the Court in Dubliu

Yes, and the Court, if it thinks fit, may make the order. 124. He must, I suppose, instruct counsel to make that application?

Yes, I think so. 125. And in every case does the Court then make the order on an applica-

tion? I suppose that it must be for the Court to consider whether it is reasonable

or not. I should think they do not make it in every case. 126. Marquess в 3 (0.1.)

7th March 1882.] Mr. Gonthy,

126. Marquess of Salisbury.] Would the henring of the principal case he

deferred until the decision on this matter had been arrived at?

I should say, certainly, that in any doubtful case in which there was a matter pending, the head Commission would send down instructions to the Sub-Compending.

missioners to postpone the hearing until the point above was decided.

127. Chairman.] What was the practice under the Act of 1870 on this point?

I cannot tell you.

128. Lord Penzance] In point of fact, are such applications often made?

129 Do you know of any such applications being made? Yes, I bave heard of some, but they are very few,

130. Marquess of Salisbury.] I suppose they are very expensive? I do not think so. Of course they cannot instruct people in Dublin to make

such an application without incurring some expense; but I should not think that the expense was heavy.

131. Chairman.] You are not aware that in a case of a claim under the Act

of 1870, in respect of disturbance and improvements, it was necessary to give a month's notice of what the improvements were which were relied upon? I am not.

13.2. Then at present, unless the landlord applies to the Court in Dublin for particulars of improvements, according to your riew he goes into court without nowing what case the teannt may make as to any improvements which he or his predecessors at any time past may have made?

133. Have the Court in Duhlin laid down any rule as to the value of the holding for which they will make these orders; have they decided that they will not go below a particular value?

I think not.

134. It has been stated that the Court in Dublin said that they would not order particulars where the holding was not over 12 L in value; is that so?

That may have been said in Court, but I have no information spon the subject.

13.5. Marquess of Salisbury.] There is no record of it?

136. Supposing that before the Sub-Commissioners a tenant produced a claim in respect of improvements, and the landlord said, "I never heard of these improvements before," would the Sub-Commissioners grant an adjournment for the purpose of getting evidence?

I should think they certainly would.

137. Lord Pennence.] But you do not know whether that bappens? I know of course, that there are cases which have been adjourned which the Sub-Commissioners thought required an adjournment; but whether this particular case which you state has been one of them I do not know.

138. Chairman.] Supposing that the landlord succeeds in obtaining an order from the Court for the particulars of improvements, has he to pay the costs of applying for that order?

I should think be certainly had to do so.

139. With the great experience that you have of these matters, and especially made the Church Temporalities Act, would there, in your judgment, he any difficulty in appending to an originating solder a schedule stating what were the improvements in respect of which the tenant claimed a reduction; of course, with liberty to samed it tupon proper reason being shown?

There

[Continued.

7th March 1883.] Mr. Godley. [Continued.

There is no doubt that such a statement as that might form part of the originating notice; but whether it is desirable that the tenant should give it, I have not considered. I suppose the Commissioners considered that before they drew up the forms.

- 140. Marquess of Salisbury.] You would rather wait to know the Commissioners' opinion? I must not commit them.
- 141. Chairman.] I suppose there would be nothing to prevent a rule of that kind being made by the Commissioners?
 - The Commissioners may draw the notice in what form they please.

142. Take the case of a purchaser under the Encumbered Estates Court, with reference to this joint which we are considering now; he buys property that he is wholly unacquainted with; he knows nothing of the history of the property, and he gets a clear title to it; and his tenant brings him into Court and and asks for a reduction of reat, and when he comes into Court claims in respect of improvements made for many years past; how can the purchaser,

under the Encumbered Estates Court, meet a case of that kind?

He can have no knowledge of what those improvements are. I am afraid I can see no way of his meeting such n case, except that, when the evidence is produced, he may furnish counter evidence if he has it.

- 143. Marquess of Salishary.] If he has never heard what the claim is going to be, he cannot furnish counter evidence when she evidence is produced?
- I suppose it is his business to furnish a complete statement of the circumstances of the holding to the Suh-Commissioners, so as to enable them to judge as to what their decision should be
- 144. Duke of Nor/olk.] Is there any rule by which any party can stay proceedings or adjourn the case for the sake of getting up further evidence? No, not without an application to the Court.
- 145. The Sub-Commissioners are not obliged to consider such an appeal?
 No, they have a discretion in the matter.
- 146. Chairman.] Supposing that there was an adjournment, I presume that it would add considerably to the costs of the proceedings?
 Of course; the counsel, and solicitors, and witnesses would all have to come
- up again.

 147. Lord Tyrone.] Are you aware that under the Act of 1870 the onus of
- proof of improvements was thrown upon the landlord?

 No, I am not.

 148. Under these circumstances, considering that this Act and the Act of
 1870 must be read together, if a landlord cannot prove the improvements
- 1870 must be read together, it a handlord cannot prove the improvements either to have been made by himself, or contributed to by himself, would not those improvements be taken as having been made by the tenant?

 I do not know; but I suppose the Suh-Commissioners have to consider that
- when the case comes before them.

 149. But is it the case, under this Act, that the landlord must prove the
- 149. But is it the case, under this Act, that the isaniford must prove the improvement to have been made by him, or, that if he does not do so, they will be taken as having heen made by the tenant?
 I do not know that that is so; I cannot tell you how the Sub-Commissioners
- understand that point.

 150. Chairman.] You are happily relieved from the task of having to administer the Act in that way?
 - It is not any part of my husiness.

 151. Marquess of Saliabary. I thas not come before you in any way?
- 152. Chairman.] You do not know whether that has been decided or not; in other words, whether the presumption of the Act of 1870 has been carried on into this Act.

I do not know.
(0.1.) B 4 153. Marquess

7th March 1882. Mr. GODLEY. [Continued.

153. Marquess of Salisbury. And oo notice has been given to the landlord to enable him to rebut this presumption ?

There is no notice given to the landlord of the improvements which the tenant alleges to be his property. Of that I am confident 154. Chairman. | Supposing that the presumption in the Act of 1870 is

carried on into this Act, do you not think that that affords a still greater reason for the tenant specifying what are the improvements that he claims to have made; and is there not the more necessity for the landlord knowing beforehund what are the improvements which the tenant relies upoo. Possibly.

155. To return, for a moment, to the Books of Record in the Judicial Department ; are they open to public inspection?

The public can apply for copies of orders.

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146. Can they get office copies?

They can be supplied on payment of a prescribed fee.

157. There are certain fees, I suppose, laid down? There are.

158. Lord Pevzance.] Is it the case that not only those who are interested in a particular case, but anyhody, may obtain a copy? I think the rule says anyhody; but as a matter of fact, of course, only those

who are interested apply for copies.

150. Chairman. Is it the subject of a rule? Yes; Rule No. 43, which is as follows:--" Certified copies of documents, other than Affidavits, required from the Land Commission, shall be certified by

an officer of the proper department. Certified copies shall, except under Rule 42, he paid for at the rate of three halfpence per folio of 72 words. 160. But that does not state who can get the copies? No. Then there is a specified fee of 1 s, necessary upon a certificate of a judicial rent being fixed. That is under another rule.

161. Can you tell us whether, as a matter of fact, one of the public can go

and get an office copy upon paying for it?

I do not think there is anything to prevent anyhody getting a copy of a document upon paying for it. But it would be occessary to engage a number of new clerks if everyhody was entitled to copies of documents in the office; and there must be some discretion as to who shall be furnished with copies,

and some reason given, in fact, for the application. 162. Lord Tyrone. Are all the hooks of record entered up to the present

date. Yes, they ought to be, so as to be kept abreast of what is going on. There . may he some arrears of two or three days; but the rule is that everything should be kept up to the day; for instance, those originating notices that come iu are all entered upon the same day that they are received.

163. And all cases are entered in the hooks so as to ensure a record being kept? Yes, every case.

164. Earl Stanhope. May I ask whether you correct the official judgments

which are delivered in open Court? I have nothing whatever to say to them. The Registrar's business I take to

he to take notes of the statement made by the Judge, and he draws that up and transcribes it, and makes it into a formal order. 165. But when a judgment is delivered it is corrected in the office, is it not,

hefore it hecomes official? No, I do not think so. My belief is that the custom is that a judge corrects his own indements, if it is to be reported. A judgment and an order are quite different things.

166, I wanted

7th Morch 1882. Mr. GODLEY.

Continued. 166. I wanted to refer to one particular judgment lately delivered by Mr. Justice O'Hagan, in which he used the words "live and thrive." In the

official copy of that judgment did those words occur : There is no official copy of it. It was not a judgment; it was an opening address.

167. Chairman] Has there been more than one set of General Orders made? Since the Book of Rules was published there have been, I think, eight additional rules made.

168. Are they all on one subject?
No. they are on many subjects. The first was dated the 19th of October 1881: "It is ordered that owing to the pressure of business, applications to get the benefit of the 60th section of the Act on the first occasion on which the Court sits, be designated by a symbol or stamp in the county book, in each case in which a ruling is made that the same stand adjourned, to be disposed of on a hearing thereof."

16q. Lord Penzance.] These Rules were made from time to time?

Yes, they were. The next was dated the 19th October 1881. "It is ordered that the sitting of the Court, commencing Thursday the 20th of October instant, do extend to and include Saturday the 29th October 1881; and that such sitting for the puposes of the 60th section of the Land Law (Ireland) Act, 1881, be the first occasion on which the Court will sit." Then the next was to extend the time of the first eccasion of sitting again, and it is as follows :-- " It is this day, Thursday the 27th day of October 1881, ordered that the sitting of the Court, commenced on Thursday the 20th October instant, forming the first occasion on which the Court sits, do extend to and include Saturday the 12th November 1881, and that the order hearing date the 19th day of October 1881 he varied accordingly." The next is with regard to the appointing of Assistant Commissioners for one year, and is dated the 9th of November 1881: "It is this day ordered that Assistant Commissioners who may be appointed from this date until the 1st day of March 1882, inclusive, shall, as hereafter provided, hold office respectively for one year from the date of their respective appointment, subject to the provisions of the Land Law (Ireland) Act, 1881 : Provided that the regulations as to tenure of office hereinbefore contained shall not apply to any Assistant Commissioners who may, during the period aforesaid, be appointed in the room of au Assistant Commissioner heretofore appointed, whose office may become vacant, in which case the Assistant Commissioner shall hold office for the same period as the person in whose room he shall have been appointed might have done. And it is ordered that the 16th General Order of the 1st day of October 1881 he varied so far as is necessary to give effect to this order, but no further."

170. Were the Assistant Commissioners appointed for a year only?

Some of them. There were a certain number appointed for seven years, and the others were appointed only for the year. Then the next is dated the 12th of December 1881: "It is this day ordered that in all cases in which cause is shown pursuant to Rule 62 against the transfer of the proceedings from the Civil Bill to the Land Cummission, the notice showing cause shall be served within the time therein limited upon the Land Commission in the usual way by letter addressed to the secretary, and sent through the post, as well as upon the opposite party." Then the next is dated the 17th of December, and it is as follows: - "It is this day ordered that the solicitor for the appellant in all cases where a question of the value of the holding is involved, when giving notice of appeal, do transmit to the Land Commission, together with such notice, the sheet of the Ordnance Survey Map, showing the holding and also certified extract from the revised valuation hooks of the lands that are the subject of the appeal." The next order, which is dated the 2nd of January, is an order enabling people to serve notice through the post office in disturbed districts, and it is in these words: "It is this day ordered that from and after this date, where the holding in respect of which notice of intention to sell the tenancy (0.1.)

[Continued.

is, by the Rules 82, 85, 86, and 87, required to be given, is situate within any district for the time being prescribed under the 'Act for the Better Protection of Person and Property in Ireland,' service on the tenant of notices, Nos. 13, 14, 15, and 17, or any of them, may be effected on such tenant by sending to him a copy of such notice and a copy of this order, by letter through the post office, addressed to him at his usual residence, and hy posting a copy of such notice on the petty sessions coort-house of the district in which the holding is situate, and such service shall be deemed good service of such notice, provided the party on whose behalf such notice is served, or bis solicitor, shall make and file, in the office of the Irish Land Commission, an affidavit, stating that the address to which the notice has been posted is the correct address of the party required to be served, and stating the county, barony, poor law union, and electoral division in which such holding is situate, and that such place of residence is within a district which has been, and is at the time of such service, prescribed as aforesaid, and that the posting of such notice throughout the post, and posting of a copy thereof on such petry sessions court-house as aforesaid, have been duly effected on the respective dates mentioned in such affidavit." Then, on the 5th of January, the following Order was issued :- "It is ordered that from and after this date, in lieu of so much of Rule 22 as provides that the Court may at all times extend the time prescribed by their rules for serving notices or doing any other act, the following rule be substituted : The Court shall have power to enlarge or ahridge the time appointed by the rules, or fixed by any order enlarging time, for doing any act or taking any proceeding upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed." That was made, I think, in order to allow people who had been prevented from appealing time in which to come in.

- 171. Chairman.] It calarges the time for appealing? Practically it does.
- 172. Has the time for appeal in certain cases heen enlarged under this role? I do not think so. I do not recollect any application being made.
- 17.3. Are there any forms made under the 50th section of the Land Act which says, "The Land Commission shall, from time to time, circolate forms of application, and directions in the mode in which applications are to he made under this Act"; that is to say, the forms about notices, and so on?

Yes.

174. Will you he kind enough to hand in to the Committee a complete set

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- of all the orders which have been issued under that section? Certainly; it will, in fact, be those orders which I have just read, in addition to this hook of rules (handing in the same).
- 175. Marquess of Salisbury.] Have they not been laid before Parliament, in accordance with the Act?
 They have.
- 176. Lord Brabourne.] Did I correctly understand you to say that, with the exception of the three documents which you handed in, the Chief Commissioners have no record of the facts upon which the Sub-Commissioners come
- to any decision?

 I know of no other papers that come in from the Sub-Commissioners as a matter of ocurse, unless they are required. As a matter of ocurse these papers come in each day according as an adjustication is made; a copy of the originating notice, the minute of order, and the order.
- 177. But have the Sub-Commissioners themselves records in full of the facts? I know they have, because whenever they have been applied to in special cases I find that they have most ample notes of everything that they have done.
 - 178. There is a great difference in a case of that kind between an official

7th March 1882.]	Mr. Godley.	[Continued.
record taken at the	time and a gentlemen's notes with	which be refreshes his

s his memory of one case among fifty others. Do you know whether the Sub-Commissioners have an official record of the facts, as taken at the time, or whether, in the event of a subsequent reference to them, they have only notes with which to refresh their memories ?

My belief is that they keep accurate notes each day of their proceedings. I know by experience that whenever they are called upon to give any account of any particular case they at once furnish ample information upon that case; but as to whether they consider those notes, taken down day by day, official or not, I cannot tell you. I only know that they produce them whenever asked for.

170. Chairman.] Is there a record kept of the evidence taken before the Sub-Commissioners, or the Commissioners, by a shortband writer or other such person?

There is no shorthand writer attached to the Sub-Commissioners. The head Commission have, on special application to the Treasury, obtained leave to employ a shorthand writer both in lease cases (that is, cases in which application is made to set aside leases made since 1870) and in cases of uppeal, but in the ordinary proceedings of the court there is no shorthand writer employed.

180. Then who takes the notes of the evidence before the Sub-Commissioners? If anybody takes it, they have got a sub-registrar attached to each Sob-Commissioner.

181. You say "if any one takes it;" does be take it?

He is not required by the head Commissioners to send in a report every day of the evidence taken. It is most probable that for the satisfaction of his own immediate chiefs he would take some notes of the evidence as it goes on, but I do not know whether that is the husiness of the registrar or not.

182. Do the Sub-Commissioners, or any of them, take a note of the evidence? I think that the legal Sub-Commissioner takes notes of the evidence as he goes along.

183. Have the notes of the legal Sub-Commissioner ever been produced or made available?

I do not know that his notes specially have been made available, except in the way which I mentioned just now, that when we have asked for explanations

of statements we always find that they have taken notes of the proceedings of each day. 184. How do you find that?

Because they are always ready to furnish a full explanation of any case which is demanded from them.

185. When the Commissioners hear an appeal, is the evidence given de nore before them? Yes, certainly.

186. The same witnesses are examined again ?

They re-hear the case.

187. They do not proceed upon the evidence taken before the Sub-Com-

No, they have not got it before them. No evidence is taken down before the Sub-Commissioners which would be available for the use of the Court of

Appeal. 188. Marquess of Salisbury. Where something has been observed personally by a Sub-Commissioner himself as part of the materials upon which a case has been determined, do the Chief Commissioners in re-hearing the case require the Snb-Commissioner to state as evidence that which he has himself observed, and

upon which the decision of the Sub-Commissioners was founded, as where, for instance, a Sub-Commissioner has gone upon the land? They have not done so in any of the cases which they have heard as vet. The evidence of the Assistant Commissioners who heard the case which (0.1.)

7th March 1882. Mr. Gobley.

is the subject of appeal, has never, so far as I know, come up before the Head Commissioners when they are hearing the appeal; they heard the appeals of Belfast, and there was no question upon which the Assistant Commissioners came to make any explanation.

18q. Even where the Sub-Commissioners themselves have made observations for the purpose of deciding upon the case?

No, I think there was nothing of the sort upon the hearing of the appeal

140. Chairwan.] Has it been the practice on the hearing of appeals for the Commissioners themselves to view the holding? I may say, in the first place, that they have heard very few cases, in con-

sequence of questions which were pending in the High Court of Judicature; but in those cases which they have heard they did not go upon the lands.

191. Marquess of Salisbury.] How many appeals have they heard? They have heard either 36 or 45, I think.

192. Lord Penzance.] Where do they sit to hear them? They sit at different towns, which are laid down in the rules; Belfast, for a certain number of counties, Galway, for a certain number, and so on.

193. Lord Tyrone.] How then do the Chief Commissioners judge of the value of the lands if they do not go to see them, and do not get any evidence from the Sub-Commissioners?

Each party re-produces the evidence which was produced before the Sub-Commissioners; and besides that, the Chief Commissioners have a special valuation of the lands made by a special valuer of their own.

104. Marquess of Salisbury. I Is new evidence allowed besides that which was offered to the Assistant Commissioners in the first instance?

I do not know. I read the account of their proceedings carefully, and I did not observe that they rejected any evidence on the ground that it had not been previously heard by the Sub-Commissioners.

195. Then if a landlord was taken by surprise by a claim for improvements with regard to which he had not had time to collect evidence, it would be open to him upon the re-hearing to produce that evidence?

That is my impression. I do not know whether there may not be some legal objection to such a course, but my impression is that the Commissioners would hear any evidence.

196. Lord Penzance.] It is an entirely new hearing, as you understand it? It is an entirely new hearing.

197. Marquess of Salisbury.] Not in any way limited by the conditions of the first hearing? My own belief is that it is not; but that is a legal point as to whether any

fresh evidence can be submitted to a court of appeal, and my opinion upon that would not be worth anything. 108. Chairman. You do not accompany the Head Commissioners when they

go to these different towns? No, all I have to do with is the administration; I have nothing to say to the judicial part of the business.

100. There are certain instructions, I believe, A. and B., to persons who wish to purchase land; will you hand in those also?

I have brought I think every form that we have in use. 200. The documents to which I refer are not exactly a form; one is the terms upon which advances may be obtained from the Land Commission, and

the other is in relation to sales from landlords to tenants? I think I have here the form to which you refer (producing them).

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201. Will you give us the present number of Sub-Commissioners? Thirty-six. 202, How

202. How many of those hold office for seven years? Twelve.

203. And 24 for one year?

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Yes.

204. What is the qualification for a Sub-Commissioner?

Each Sub-Commission consists of one legal and two non-legal members. The legal member, I presume, is selected for his position in his profession, but the Commission have nothing to say to that; that was entirely done by the Government.

205. Is there not a requirement, either in the Act of Parliament or in the rules, as to the technical qualification of the Sub-Commissioners? There is. The 50th section of the Act of Parliament provides that the Com-

mission may make rules, among other things, as to the qualifications and tenure of office of Assistant Commissioners.

206. It is the 16th and five following rules which refer to the Assistant Commissioners, is it not? Those are the only rules which deal with the subject of the Assistant Commissioners.

207. "Assistant Commissioners shall hold office until the 22nd August 1888, subject to the provisions of the Land Law (Ireland) Act, 1881. Barristers, solicitors, and persons possessing a practical nequaintance with the value of land in Ireland shall be competent to be appointed to the office"; that is the

only place where their qualification is laid down, is it? That is all that I know of. 208. The section in the Act of Parliament says that the Land Commission may make rules as to the qualifications and tenure of office of Assistant

Commissioners ? I thought that the qualifications of the non-legal Commissioners were some-

where stated. 209. Where is the rule which provides that a certain number of Sub-Commissioners should hold office for a year only?

That is one of the extra rules which I have read. 210. When these Sub-Commissioners were appointed, their districts, I suppose, were assigned by the Head Commissioners?

Yes. 211. And the Head Commissioners appoint what Sub-Commissioners shall

go to particular districts, is that so ? Yes. 212. What instructions were given, and in what form were the instructions

iven, to the Sub-Commissioners by the Head Commissioners, with regard to the cases which they were to bear? There were no instructions given whatever except reference to the Act of

Parliament. 213. No instructions were given as to the manner of holding courts?

No. There were some instructions to the Sub-Commissioners as to holding aloof from people of the county and not accepting hospitality, but I presume you do not refer to that; there were no instructions as to their mode of legal

procedure. 214. Were those letters passing through your office?

Yes; there was a letter from my office desiring the Sub-Commissioners not to accept hospitality, for instance, and there were also other letters. There was nothing as to the mode of valuation or their proceedings in court.

215. Marquess of Salisbary. There was no letter desiring them to see the land?

No, that is in the rules; that if possible they shall visit the land. (0.1.)216. Chairman. 7th March 1882.] Mr. Godler. [Continued.

2:6. Chairman.] Would you tell us what rule that is?
Rule 20, is that, "It shall be the duty of the Sub-Commission or of one or more of its members, so far as practicable, to visit in person the holding in any case in which they deem that such visit may conduce to a just decision."

217. That is the only instruction as to visiting the land?
That is the only instruction as to visiting the land.

218. What is the form of delegation of authority by the Chief Commissioners to the Sub-Commissioners?

I can hand that in or send it over. One was sent over to the Attorney General for Ireland to present to Parliament, as I believe; whether he was going to present it as an official document I do not know.

219. Is it the same form in every case? Yes,

220. Lord Tyrone.] With regard to the question which the noble and learned Lord has just asked you, as to the instructions given to the Suh-Commissioners, you say that no instructions have here given?

No instructions with regard to the mode of valuation or as to their proceed-

ings in court.

221. Can you explain then a statement made by a Sub-Commissioner;

When which was referred to by Lord Carlingford in the House of Lords.

Mr. Wylle, which was referred to hy Lord Carlingford in the House of Lords, as to an imperative rule upon which he had to proceed?

Was he referring to the necessity of visiting the lands?

222. No, not necessarily? I happen to recollect this case specially, for I think I spoke to Mr. Wylie

himself upon that point when I hippend to meet him. This is merely upweollection of the conversation; I did not put it down; but I am pretty confident that Mr. Wylic referred to the necessity of the Sub-Commissioners visiting the lands, and also referred to that special rule which has just been read out; I think that was the "imperative rule" to which he referred. 223. Marquess of Salidway, Should you describe that as an "imperative

223. Marquess of Salusury.] Should you describe that as an "imperative rule"? No; I should say that it is certainly not imperative; it is qualified.

224. It is imperative after the fashion of the Highgate oath?

225. Chairman.] Have the Sub-Commissioners power to call in a professional valuator?

valuator? Yes; they have power under the 48th section of the Act to appoint an independent valuator. The Sub-Commissioners have all the powers of the Commissioners for that bursoes.

226. Earl Stankope.] They are not limited in the matter of expenses as to anything they may require?
Under the 48th section the expenses must be charged against the parties;

Under the 48th section the expenses must be charged against the parties; there are no public funds for the purpose.

227, Clairman, J. Sub-section 4 of the 48th section of the Act Is a follows:
"In determining any question relating to a holding, the Commission any
direct an independent value is report to it is depinion on any matter the Comsistence of the Commission and th

Yes. I know that either under the Act of Perliament or under the rules, or by delegation, the Assistant Commissioners have all those powers which are given to the Commissioners.

7th March 1882.7 Mr. GODLEY.

228. That must be in the delegation of powers then? I suppose it is. The delegation does run in that shape.

224. Has there been any case where the Suh-Commissioners bave, under that power, called in a valuer?

I think there has; but the cases have been very few. It would not come specially before me, because the Sub-Commissioners appoint this valuer, and make an order for one of the parties to pay his costs. I think they have done it in two or three cases, but not more,

230. Marquess of Abercorn.] Is the expense of the valuator charged to the landlord or to the tenant, or to both conjointly ? The Suh-Commissioner can use his own discretion, and give it against either

party. 231. Chairman.] When cases are to be heard by the Commissioners on

appeal, do the Sub-Commissioners make any special report to the Commissioners with regard to the case that is to he heard? No. certainly not. I should think that the anxiety of the Commissioners would be to go to the re-hearing of the case with their minds absolutely

free, without any prepossession either way. The Commissioners would, of course, he shle to see the order which had been made by the Sub-Commissioners in each case. 232. Can you give the exact number of the cases of originating notices up to

this time? On Saturday week the number was hetween 72,000 and 73,000.

233. They go on increasing every week, do they?

Every day.

(0.1.)

234. Can you tell us the average rate per week of the increase?

They are coming in even now at the rate of, I should say, from 100 to 150 a day, some days more and some days less. 235. That is about 1,000 per week then?

I should think there would, perhaps, be rather under that. They have fallen off rather lately. At one time we got as many as 10,000 in one day. 236. Marquess of Salisbury.] That was just at the beginning?

Just at the beginning.

237. Duke of Norfolk.] Have they been decreasing ever since the first outbreak? I think so.

258. Chairman.] Out of that total number, how many have been actually heard? There is a Parliamentary Paper which will be issued either to-morrow

THERE IS A TRIBINGHMANY FRIPE WHICH WIT DO INSURED CO-MONTHON OF the next day, which will correct me if I am wrong. I am reluctant to give the figure; in II I can give it within a very few. Up to Saturday week, the 28th of February, there have been altogether, I think, about 3,300 cases adjudicated upon by the Sub-Commissioners, and there have been rather more settlements out of court. I think that the whole number of cases decided in one way or another, up to the day I mentioned, has been about 5,300. I cannot be quite certain as to what the proportions were, how many were decided by the Sub-Commissioners, and how many were settled out of court; hut I think that they are very nearly half and half.

239. When you say that they were decided out of court, do you mean settlements of which the Court bad cognizance afterwards, and which were made the subjects of an order?

They were nearly all agreements for judicial rents on Form 33.

140. Coming hefore the Court in that way? Yes, coming into the Head Court and not going through a Sub-Commission at all. 241. Marquess C 4

Continued. 7th March 1882.7 Mr. Godley.

241. Marquess of Sallibury.] Of those, how many are appealed against? On the same date there were something over 700 appeals; but I shall be checked by that Parliamentary Paper of which I have before spoken.

242. Chairman.] How many have been heard? Either 45 or 36, I am not quite certain which.

24

243. Can you give us any information as to what is the average cost of one of those cases before the Suh-Commissioners?

The legal costs are laid down in a schedule attached to the rules.

244. I mean the costs which really have to be made by one side or the other; hy the landlord or by the tenant, including all the professional costs?

I am afraid that I could not hazard even a conjecture upon that, because some of them employ valuers and some do not; some employ country attorneys and some bring down counsel from Dublin to argue their cases; therefore I think it would be quite impossible to give any general estimate of the cost.

245. Are the costs taxed by the officers of the court? Yes.

246. Are they generally taxed or settled without taxation?

They are taxed by the Sub-Commissioners ; they are not taxed in the Head Commissioner's office.

247. Are they taxed by the Sub-Commissioners themselves? Yes; they are taxed by the Sub-Commissioners, on the application, I presume,

of any party; they do not come up to our office. 248. Marquess of Saliebury. Have the Suh-Commissioners a taxing officer?

The Registrar of the Suh-Commissioners would act in that capacity; he would take the Schedule attached to the Rules, and he would see that the solicitors were not charging more than they ought.

249. Chairman] The costs would be the costs of the solicitor or attorney, and of the counsel, if they had one, and the costs of the valuers?

Those costs are checked by the Suh-Commissioners, and, I believe, by their Sub-Registrar; but those costs are now very seldom given; the practice of the Commissioners is that each party abides his own costs, and therefore the matter has not come prominently under my notice for a long time.

250. When you say that the rule of the Commissioners is that each party abides his own costs, what rule do you refer to?

The direction of the Commissioners, which was laid down in one of their judgments in the Appeal Court lately, but they had previously stated their opinion, which, I presume, it was imperative upon the Sub-Commissioners to follow, that the costs should be borne by each of the parties, except under very special circumstances.

251. And that is the course taken now by the Sub-Commissioners? Yes: costs are not given.

252. But one wants to get at the costs which are home by each of the parties; somehody has to pay them? That would not come under the cognizance of myself, or of the Commissioners

in any way, except so far as the costs are laid down in this Schedule attached to the Book of Rules. 253. Marquess of Salisbury. The Sub-Registrar taxes costs you say, but the

documents upon which he acts are not sent up to the Central Office? No; I fancy the proceedings would be that the attorney would furnish his hill of costs, and some parts of it would be struck out, and it would be returned to him, and he would present that to the opposite party, if the opposite party had to pay his costs.

254. There is nothing further than that? No; it is all done by the Sub-Commissioners.

255. Chairman.

7th March 1882. Mr. Gonley.

255. Chairman.] Have you any idea what the ordinary costs of a case would be; would they amount to 10 l., or 20 l., or 30 l.?

I have no idea.

256. Marquess of Salisbury.] When you say that it is now the rule that each party should pay his own costs, I suppose that is only in cases that have arison subsequently to the appeal to the Commissioners?

Before that the Commissioners had informed the Sub-Commissioners that, in their opinion, costs should not be given against either party, as a rule.

257. By letter, through you? Yes.

258. Could you put that letter in ?

259. Was that a decision which was made upon no special case submitted to them, or after hearing argument, but simply upon general grounds of policy?

Upon general grounds of policy.

260. Have there heen any other instructions of a similar kind issued through you without heing given in open court?

Learnet recollege at this processes, the

I cannot recollect at this moment; there may have been some; if any occur to me I will mention them to you.

261. Lord Tyrone.] Whilst we are on the question of costs, can you give us

any idea of what the cost of the Land Commission staff is for one per? I can give you the estimate for the next year exectly, because I checked it myself, amongst my other duties. I went through every item; it will be printed in a few days. In case any question should be asked me I have

arought the draft of the estimate, but I could not hand it in. 262. That is an estimate for next year I understand you?

263. Have you any return of the expenditure up to this date? Yes, a Supplementary Estimate.

264. Will that be put in too?

That is in print.

263. Have you any return of the amount of money received by stamps, &c.?

No; but that does not come into our office, that goes into the Stamp Office; it is paid into the public Exchequer, but the stamps are issued by the Stamp Office, and the stamp distributors in the county are paid and account to their own superiors for the money; it does not come to us.

266. You could not, I suppose, put in an account of the expenses and the receipts?
No, we could not. One could arrive at an approximation to it, because

every originating notice has a 1s. stamp; there are 72,000 shillings to begin with.

267. Bet it would be hardly fair to count them against this year would it,

hecause they may not be heard for five or six years to come?

Those are the receipts so far; I suppose 72,000 shillings have been paid into the public Rechequer.

268. Then you would not receive for the next five years any further on those? No, certainly not.

269. Chairman.] Returning for a moment to a subject that we spoke of a little

and continued in the statement of a moment to a snoplect that we spoke of a little time ago, viz., the precedence given to particular cases for particular reasens; when an estate is to be sold in the Landed Estates Court (if there are any sales now), would proceedence be given to sumanoness with regard to the holdings on that estate; has there heen any application of that kind made? I think not; I have not heard of anything of that sort.

(0.1.) D 270. What

7th March 1882.7 [Continued. 270. What is the course taken by the Commissioners with regard to the

interests of mortgagees? With regard to the proceedings before the Sub-Commissioners, the Commissioners require persons who are interested to he vigilant and look out for themselves; they do not undertake to inform mortgagees when the holdings on any estate come into their court ; but on the application of anyhody appearing to have an interest they would direct him (although I have not heard of such a

case yet) to he served with a notice. 271. Suppose the case of a mortgagee in London of a property in some county in Ireland; he has no communication made to him with regard to any change in the rental, or any proceeding to fix the rentals; supposing that he finds that, after some time, the rent upon which he relied had been materially

altered? The question was before Commissioners, and they decided that they could not undertake to give notice to the persons interested when it was sought to obtain a reduction in the rents of an estate, and that it was the duty of those persons to be watchful, and to inform themselves. But in the case of judicial persons to be wateritui, and to inform memberses. Due in the case of judicial agreements, in which there are no proceedings in Court, the action of the Commissioners is different; there they advers "s. Before a judicial agreement is filed, it is advertised in the newspapers for the benefit of the mortgagees, because the mortgagees could not possibly hear of what was going on, or at least they might

272. Marquess of Salisbury.] Has the mortgagee a right to come in and say, "This rent is too low; it will not give me sufficient security?"

No doubt that is the object of publishing this advertisement. An advertisement is published, showing in one column the old rent and in another column the judicial rent, so that mortgagees and persons interested may see what the fall is, and then they have an opportunity of coming in, before that agreement is filed, to make objections-

273. Chairman. Where is that advertisement published?

not: there being no proceeding in open Court.

We hegan hy publishing in the "Dublin General Advertiser," "The Times," and the "Scotsman," so as to have a newspaper in each of three countries. But the expense was evidently going to he enormous, because there are a great number of these judicial agreements on Form 33; and it was then decided only to publish them at length in the "General Advertiser" in Duhlin, and to send notices to the other papers stating that anybody interested in the reduction of rents in Ireland would find the full list in the "General Advertiser" of such and such a date. We should put short advertisements in the other papers calling attention to the full advertisements in the "Dubliu General Advertiser."

274. Marquess of Salisbury. Your short advertisement would simply say that mortgages in general should huy the "Duhlin Advertiser?" It is furnished gratis.

275. Lord Turone. Would it not be possible that great hardship might be inflicted upon mortgagees by the fact of not giving them notice of a case coming

hefore the Court? No donbt if mortgagees were not vigilant harm might come to them.

276. Supposing that a landlord had some cases on his estate before the Conrt, and that be had it heavily mortgaged, he might allow those cases to go by default, and therefore the mortgagee, not having had notice, might not appear, and neither the landlord nor the mortgagee appearing, the tenants would have it all their way, would they not?

I do not know that. The Suh-Commissioners, I think, would probably visit the lands and ascertain for themselves what the fair rent was,

277. But might not the fact of his not having information he unfair to the mortgagee? It depends. If the mortgagess do not look out for themselves no doubt they will suffer.

278. Chairman.

7th March 1882.] Mr. Godley.

278. Chairmon.] I suppose you would say that in England a landlord might reduce his roots as between himself and his tenants, and that if a mortgagee

has not taken possession he must take care of himself?

Yes, but that would be a very much worse case than in Irelaod, where all
mortgagees must now be on the alert, and would naturally inquire whether
estates in which they were interested were coming into court.

270. Marquess of Solisbury.] Do you give information to anybody who asks, as to what is the place in the precedence list of any particular case? The list is published.

280. The lists that are published, I understand you, are the lists that the Sub-Commissioners are to act upon at the next sitting; but if a mortgage wished to know when he was likely to be called upon to interfere in defence of his interests, would you tell him how far down on the general list any particular case was?

Certainly, we would give every information that we possibly could. If any member of the public writes to ask for information, if there is the least ground for supposing that it is not mere iole curiosity, we take every trouble to satisfy him.

281. Where, from any reason, the landlord is not sufficiently active in resisting the claims of the tenant, is the mortgagee, if he does get notice, allowed to step into the landlord's sloces, and to appear?

step into the landlord's shoes, and to appear?

That, I take it, Is the meaning of the 48th Rule, which says:—"The Court shall have power, in any proceedings pending hefore it, to direct any person appearing to have an interest, to be served with notice of the proceedings, and such person shall thereupon have the same rights of appearing, intervening,

and being served with notice, as if he had been a person named in the originating notice or proceeding, either as lamided or tennat, and shall, if the court so order, be bound by the proceedings."

825. Chairman, I suppose it would be possible for the mortgagee of an extate in Ireland to make a general application to the court, and say "if there are any originating notices on this property, I put in a claim to be served with

notice of them "?

I feel sure the Commissioners would not undertake to serve notices upon such a general application as that, because it would involve a great deal of responsibility.

283. However, you are not aware of the application having been made?
No: there was a correspondence by a person who was either a mortgaged

or who represented himself as agent for a mortgage, in which be asked this very question, whether a general application would be sufficient; and my recollection is that he was answered, that the Commission could not undertake to serve him with such a notice as is provided for in the 48th Rule, except when the particular case came into court.

284. Lord Tyrone.] You mentioned that you were on the staff of the Church Temporalities Commission, and that that was amalganated with this other staff; were all the staff of the Church Temporalities Commission placed upon the other staff.

No, not all.

285. Other gentlemen were brought in before that staff was exhausted? Yes.

286. Would you tell me why that was done?

I thin the Commissioners considered that it would not be an advisable thing to transfer the whole establishment as Mac; they picked out those men whom they thought would be most useful to them; the officers of the Church Temporalities Commission had no claim on the Land Commissioners beyond any claim that they had from their merits in their previous service.

 287. Certainly not; but when the two staffs were amalgamated 1 should have (0.1.) 7th March 1882.] Mr. Godley. [Continued.

thought that unless there was something against gentlemen serving on the

previous staff, they would have been selected before outsiders were brough in?

I think the Commissioners, as I have just said, did not think it advisable to take over the whole establishment.

288. I should like to know whether there was any qualifying examination, or

test of fitness applied to the officials?

28

Yes; they were all, with certain exceptions, required to pass a Citil Service cannimington; the exceptions are in the use of those when are what they call "gazetted into Schodule 5," that is done by the Treasury; the Treasury and we the control of the control o

289. With regard to the record that you were asked about before, I should like to know whether your opision would be that if there was a statement made of the improvements made by the tenants upon which reats were reduced, such a statement would conduce to a settlement out of court, as showing the indilord and the tenant the lines upon which the Sub-Commissioners acted?

There may he pro's and con's in all these things; it is rather difficult for me on the spur of the moment to make up my mind as to what I should advise in the case, and I think I would rather not give an opinion offband.

200. I should like to know whether any friction has been caused in the working of the rules, and whether any of the rules have been altered up to the present time?

The first one that strikes me is that rule with regard to enlarging the time for hearing appeals; it was found by experience that it was advisable to enlarge the rules so as to give the court the power of extending the time; that is an instance that strikes me at once; I think the rules that I handed in refer to previous rules in one or two cases; they certainly did in that case.

291. There was a rule made, I believe, that in cases of the sale of interest in a tenant's holding, a fortnight's notice must be served upon the tenant in addition to the writ; has not that rule in the present state of Ireland caused great difficulty?

My own belief is that there have been very few of those cases; no doubt there must have been some, or else the Commissioners would not have made that order, has I think there have been in our office very few applications or tenancy. It does not appear that a copy of that has to be sent to the Commissioners; but my reason for saying this is, that the matter has never commissioners; but my reason for saying this in, that the matter has never comlaring the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the companion of the companion of the comtant of the com-

292. I wish to know who prepared these forms?

The Commissioners themselves, and I have no doubt that some of the level

Assistant Commissioners had something to say to it, and also the solicitor. The first two months of the Commission were spent in arranging these rules and forms.

203. Viscount Hutchinson.] But all the forms, I suppose, are revised by the

Chief Commissioners?
Yes.

294. Lord Tyrone.] I wish to ask you for particulars of a circular which was sent round, I helieve, through the Post Office, called "Benefits conferred on Irish tenant farmers by the Land Act (Iroland);" you remember the circular? I remember the circular.

7th March 1882. Mr. Godley.

205. Marquess of Salisbury.] Has any similar circular been circulated among the landlords?

It was both prepared and circulated before I became sorretary : but I recollect the circumstances perfectly well,

296. Lord Tyrone.] Was it circulated at the express instance of the Chief Commissioner?

By desire of all the Commissioners.

297. I should also like to know whether you are aware that it was sent to all the post offices throughout the kingdom to be sold? I think it was?

298. That, we may take it, is the first publication made by the Commission. The second publication was the pamphlet which has been so much talked about; are you aware whether, as I have heard stated, any official in the Lund Commission revised that pamphlet?

That I really cannot answer; I do not know. Some time after the thing attracted public attention, it was pointed out to me that it evidently was not a reprint. At first it was believed that the Stationery Office had merely reprinted the original pamphlet, and it was only some time after attention was called to it that it was observed that there was some difference in the heading; but who made that I cannot tell you.

200. You are not aware whether any official besides Mr. Fottrell revised that pamphlet?

No, I am not. To tell you the truth, I expressly refrained from asking the question, because I think Mr. Fottrell himself admits that the pamphlet was his, and I did not see any object in bringing anybody else into it.

300. Lord Brabourne.] You do not happen to know what precedent of any other Court this Court followed in sending out a circular to one of the two parties between whom it was going to adjudicate? No. I do not.

301. You are not aware of any precedent?

302. Lord Tyrone.] Was this pamphlet, entitled "How to become the Owner of One's Farm," sent to the Registrar of the Sub-Commissioners? As I understand, it was sent to each Sub-Commission.

393. To circulate?

For distribution, I think. There was no letter sent with it; in fact, as far as I was concerned, I never heard of the thing. No doubt, when authority was first given for the purchase of these pamphlets, which was the original authority, it was then believed in the office that they should be distributed; but there was no letter sent with them, and the fact of distribution never came to my knowledge; I never heard of it from the day that I unfortunately put my initials to the order until Judge O'Hagan called my attention to it nearly two months afterwards.

tos. Marouess of Salisbury, | Was not the pamphlet sent up to you when you put your initial to the order? It was sent up to me, and it lay upon my table, but I unfortunately did not

read it. 205. Viscount Hutchinson. You have told us that you know nothing about

it, but that the pamphlet went out of the office in a distinctly different form from that in which it went in? I thought I had explained how that happened. The original order was to

urchase so many copies for distribution; that order went to the Stationery Office, and the Stationery Office finding that it was cheaper to print than to purchase, printed it; and then there is no doubt that it underwent some revision; but by whom or from whom I do not know; it was merely some difference in the heading; I do not understand that there was any change made in the substance of the pamphlet; I never read it through, but D 3 (0.1.)

30

7th March 1882.] Mr. GODLEY. [Continued.

my attention was called to the difference in the heading, showing that it had been revised and the proofs corrected; but who revised it and corrected it I know not.

know not.

306. Marquess of Salisbury.] Do you imagine that it was the revised pamphlet, or the original pamphlet, which was on your table, and to which you

put your initials?

It was the original pamphlet.

307. Then it was revised after you had given orders for its circulation?

307. Then it was revised after you had given orders for its circulation? For its purchase.

30 \$. Chairman.] It was broken up into divisions, with a heading for each division, was it not?

The thing as it originally appeared was a collection of leading articles, and it looks now exactly as it looked then.

309. But who could have made those alterations; it was not the Stationery Office that did it?

That I am unable to tell you.

310. Have you inquired about it?
No; 1 did not think it was advisable to inquire any further.

311. Earl Stankope.] Would you not think it a great breach of discipline in a public office if, after a secretary has signed a document, it is altered in that

omee;
Of course it should not have been altered. Anything that I authorise should have been circulated in the form in which I authorised it.

312. Marquess of Salisbury.] But should you not think it necessary to inquire into that, in order to prevent its happening again, because it may happen in a much graver case. If people are in the habit of altering what you have ordered to be issued, without consulting you, do you not think that that materially affects the efficiency of your office?

There is no doubt that it should not have been done. I cannot put forward any excuse for it.

313. Lord Tyrone.] Were any other circulars or pamphlets issued to the tenants besides the two I have mentioned?

I do not recollect any others. I saw the other day in the newspapers that

I do not recollect any others. I saw the other day in the newspapers that one of the Assistant Commissioners said that he had some information to distribute with respect to the working of the Act, but what it was I do not know. It happened to catch my eye in the newspaper, and I wondered what he was going to distribute, and whether it was that Abstract of the Land Act which I have been, and which there is no doubt was properly sanctioned.

314. Are you aware who selected the Sub-Commissioners ? The Government.

315. Are you aware whether the Chief Commissioners were consulted? I cannot answer the question, because they did not take me into their confidence.

316. Do you know whether any test was applied to the Sub-Commissioners? I do not.

I do not.
317. Viscount Hutchinson.] I suppose that a good many people applied for
the office of Sub-Commissioner?

Hundreds.

318. Did the applications come direct to you, or did they go to the Chief
Secretary's Department?
Several came to me; but the applicants were always told that the Commissioners had nothing to say to it, that the appointment was in the hands of the

310. Practically

Lord Lieutenant.

7th March 1882.] Mr. Godley.

319 Practically, the applications that came to you were forwarded on? We always told the applicant that he had applied to the wrong person.

320. Lord Tyrone.] Will you tell me why the Government valuation is required to be stated on an originating notice?

Because the very first question which is always asked is, "What is your valuation?" and it was thought that it would facilitate matters and push them on if that were stated in the first place. It is the very first question that is asked when there is any question of rent, or anything connected with it.

321. Do you consider that the valuation in Ireland is any guide at all as to rent, speaking from your experience in both capacities?

I think if is a guide in the northern counties where the valuation?

I think it is a guide in the northern counties, where the valuation is recent; but it is no guide whatever over the greater part of Ireland. I know that in the Church Commission we used always to think that the valuation was a fair rent in the North; but that did not apply to the West and South, or any of those places where the valuation had been made many years ago.

3 22. And you considered it there no guide whatever? None whatever.

tro. .

323. What was the use of putting upon an originating notice what was no guide?

The only answer I can give you is what I have just said. The first question that is always asked, even it people profess not to be guided by it at all, is "What is your valuation"?

324. Lord Brabarne.] Was not the requirement likely to convey to the minds of the Sub-Commissioners that that was held by the Government to be

some sort of guide?

I do not think so, because the untrustworthiness of the valuation as a guide to rent all over Ireland is so perfectly well known.

325. Marquis of Abercorn.] Are you aware that in the opinion of Sir Richard Griffith, the former valuation in the North was at least 15 or 20 years

Griffith, the former valuation in the North was at least 15 or 20 per cent. below the letting value? I was not aware of that.

326. Lord Tyrons.] Are there any sees payable to the Inlaud Rerenue besides the 1 s. stamp.

327. Have you any idea how much those stamps have realised: No.

328. Is it true, as has been reported, that there is a question of now making a lease stamp to be affixed to an agreement out of Court?
Yes, there is a question pending now as to that. Are you referring to these

udicial agreements?

22. Not to judicial leases, but judicial agreements out of Court?

The Commissioners do not require a Court fee, a 1 s. stamp upon such an

are commissioners do not require a Court fee, a 1.s. stamp upon such an agreement as that.

330. But do they intend to have a lesse stamp put upon it which would cost

a great deal more?

That is a question for the Stamp Office to decide. It is an ad valuers duty.

The Commission wrote to the Stamp Office recommending, as the point was of such importance, that the opinion of the law officers of the Crown should be

taken as to whether these judicial agreements required the payment of a stamp duty.

(0.1.) D 4 331. Which

331. Which would add very much, I infer, to the expense? Yes, very much.

32

332. That is at present pending, I understand? Yes, that is at present pending. We sent a considerable time ago to the Stamp Office a letter asking for the opinion of the law officers, but we have never got it vct.

333. If that stamp duty should be put upon these agreements, do you not consider that it would operate very much against the agreements being earried on out of Court ?

I cannot say that I think it would operate very much against it, but it would add to the expense. I can hardly suppose that if people thought it advisable to make agreements out of Court, they would be deterred by the expense of the stamp duty; but it does, no doubt, work against it to some extent.

334. And working in that way it would add to the block in the Courts, would it not?

No doubt, if it prevented the judicial agreements being come to,

335. If a statutory term is signed by an agent for a landlord, is that sufficient unless that agent has a power of attorney to do so?

I never heard the point raised before, but it seems to me an important one. I have no doubt that I could get you a proper answer to that question if I consulted the Commissioners upon it.

226. Would you kindly furnish the Committee with the answer? Certainly.

337. How does a landlord become aware if his tenant's case is withdrawn? It cannot be withdrawn without the landlord's consent, 338. What proportion of cases listed for hearing are usually disposed of at

each sitting of a Sub-Commission? I am airaid I could not give you an average. I think our object is to put 50 cases in the list, and sometimes they are all got through; but sometimes there is a considerable number remaining over. I am afraid I could not give you what the average number is; it must vary immensely according to the circumstances; for instance, in some cases before they give their decisions the

Commissioners go long distances to visit the farms, 230. In cases of dispute as to acreage, is there a provision made for a surveyor, an officer of the court, to go down and survey?

No, the only provision in the Act is for a valuator; I do not think there is any provision for a surveyor. 340. Are you aware bow disputes as to acreage are settled?

suppose that that would be a matter for the consideration of the Sub-Commissioners. I should say that they might possibly go upon the land themselves and arrive at some conclusion.

341. Have you any idea how long it would take to hear all the cases at

present pending with the present staff?

I have not. The adjudications are very much more rapid now than they were. There was a return made up of the decisions of the Sub-Commissioners up to the 28th of January, and there was another return I think up to the 24th of l'ebruary; and there were very nearly as many cases decided in that three weeks or a month as had been decided in the previous four months, showing that matters were going much faster and that the thing worked much more easily. And the County Court Judges I think have disposed of their cases

much more quickly than the Sub-Commissioners. 342. Viscount Hutchinson.] Have very many cases come before the County Court Judges ? Ves.

343. Is

7th March 1882.]	Mr. Godley.	[Continued.

343. Is there any return of those cases? Yes (producing a Return). This has been presented to Parliament.

344. The Return that was presented the other day, showed some 13,000 and odd cases that had been decided; those cases were exclusive of the cases that came hefore the County Court Judges?

I said, I think, that altogether 5,300 cases had been disposed of ; that includes the cases decided by the Sub-Commissioners, the cases that have come before the County Court Judges, and the voluntary settlements out of Court. But I guarded myself against those figures which I have given being taken as absolutely accurate. It will be in a Parliamentary Paper, which I think is to

he published either to day or to-morrow. 345. Lord Tyrone.] From the evidence that you gave to the noble Lord in the Chair just now, I suppose there is no doubt that there is a block in the

Courts from the amaber of cases listed for hearing altogether? There are a vast number of cases in Court, no doubt; but to say that there is an absolute block, would, I think, perhaps he going too far. The cases are now heing decided very much more rapidly than they were, and I can hardly say that there is a block now; of course there is a block in every Court when there is a vast deal of husiness in it.

346. Do you consider that there is any likelihood of the cases now put down for hearing being heard within five years? Yes, certainly, I do. I think that the cases in Court now will be settled in

very much less time than that, 347. Viscount Hutchisson, Do you anticipate that they will all come before

the Courts, or that there will be a great increase of voluntary settlements? I anticipate a very great increase of voluntary settlements.

348. Lord Brabourne.] Do you not think that the decisions given in certain appeals recently will probably have the effect of bringing people to voluntary settlement who may have been waiting? I have no doubt of it; and when the Court of Appeal has sat and decided

some cases, in the light of the recent decision of the High Court of Justice in Ireland, there will be a largely increased number of settlements out of Court. 349. Lord Tyrone. Supposing then, that, contrary to your expectation, there should be a block in the Courts, which I believe is the idea of a great

many gentlemen in Ireland, would you think it advisable that it should be got over as far as could be hy hearing the urgent cases first? Every man thinks his own case is most urgent.

350. I have heard it suggested that an urgent case might be considered a case in which the rent had been raised within a certain specified time; would you consider that a proper definition?

My own idea would be that no cases should be considered urgent except

those cases in which the tenants have been evicted. 351. Are you aware how the question of poor rates is dealt with in fixing

the judicial rent of a form? I believe the poor rate is payable just in the same way as it was hefore.

352. Are you aware whether the amount of the poor rate is taken into consideration or not?

I must assume that the Assistant Commissioners do take it into consideration. 353. Have any judicial leases been taken out yet?

I think not one, but I am not quite certain. 354. Do you think that the taking out of a judicial lease would be any

advantage to either the landlord or the tenant? The case not having come up at all as yet, I have not directed my attention to it.

355. With (0.1.)

7th March 1882.] Mr. Godlet. [Continued.

355. With regard to reclamation, is it true as stated in the Rules, that the amount advanced for reclamation purposes is limited to 100 f. as a minimum? I have no recollection of any sum being mentioned in the Rules.

356. This is the Board of Public Works Land Law (Ireland) Act, and it says here, "Conditions to which loans will be subject. No loan will be granted for less than 100 l., nor will any loan be granted for a greater sum than five years of the annual value of the holding, to be charged with the repayment of the

of the annual value of the holding, to be charged with the repayment of the loan." Were you aware of that fact?

That was a circular of the Board of Works; we have nothing to say to that.

357. Viscount Hutchinson.] Has there been any correspondence between the Land Commission and the Board of Works upon the subject?

Land Commission and the Board of Works upon the subject?

I believe this is altogether a matter that has been decided between the Board of Works and the Treasury. So far as I know, the Land Commissioners

358. Lord Tyrone.] The Land Commissioners have nothing to do, I understand, with that part of the working of the Act?

Nothing whatever.

have never been consulted in the matter at all.

359. Viscount Hutchinson. Not with the reclamation clauses?
There is something about reclamation; I have hardly had time to look at it with great attention, but I have never heard of the thing coming before the

Land Commissioners, and I do not think it ever has, and, from a cursory inspection of the Section, I do not think it could.

360. Lord Tyrone.] Then I understand that you are not sware that the Land

Commission have anything to do with the advances for reclamation?
They have not.

361. Viscount Hutchinson.) With regard to the question of notice which you spoke shoutjust now, you say that the Court gives notice to the parties interested at a certain time hefore the atit is supposed to come on for hearing; to whom is the notice sent on the landbord's side?

Either to himself or to his solicitor.

362. Or to his agent? Or to his agent.

34

363. To one of the three; not to all three?
I do not think that the Commissioners feel themselves under the obligation.

of sending to all; they send to everybody that they think can be interested.

364. In the case of absence landlords and people who are abroad, it may

304. In the case of assence landards and people who are acroad, it may cause great inconvenience at times if the notice is sent to the landlord alone, because he may he anywhere? Yes.

365. And I have heard it said by solicitors that very often the notices reach
them a very short time before the case comes on for hearing?

The Commissioners' practice is to print the lists three weeks before the
hearing, and to circulate them at once. Of course I cannot say that there may

hearing, and to circulate them at once. Of course I cannot say that there may not have heen some failures.

366. There is one point that has not heen touched upon very much, and

that is the question of the fixing of the value of tenancies, I suppose that in any return which the Sub-Commissioners would send up to the Chief Commissioners, or in any order that the Chief Commissioners could make upon a case, that would he included.

Vas if there fixed the value of the tenancy. I was used gring to show you

Yes, if they fixed the value of the tenancy. I was just going to show you the way in which the hooks are kept (producing a form).

367. Is that one of the records that you were speaking of that is open for inspection?
This is a record of judicial rents. The Commission would not think it

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ohligatory

The March	1882.]		Mr. Gonley			Contin	ued.
obligatory	apon them	to give a	copy of this	to anyhody who	asked	them.	Of

course the landlord and the tenant are entitled to a certified copy, but nobody else is entitled to one.

368. Lord Tyrwie, Not a mortgagee? Yes, I have no doubt a mortgagee would be entitled if he had been served

with notice of intervention. 369. Viscount Hutchinson, | But I understand that in an ordinary Court of

Record documents of that sort are open to anybody, and anybody has a right to go and ask for copies? I do not think that the Commissioners would consent to furnish copies of the

judicial rents to anybody who asked for them, besides the persons interested. 370. To go back to the question of the value of tenancies, could you give us

any idea how many years purchase of a farm the value of a tenancy amounts to, on an average, as fixed by the Court? No. I cannot.

371. Do you know any cases where the Suh Commissioners have refused to fix the value of tenancies?

No I cannot recollect hearing of any; I have not heard of any complaints being made to the Head Commissioners of any such refusal on the part at the Assistant Commissioners; and I suppose if there had been any I should have

beard of it. 372. It is not the case that in Ul-ter, for instance, where tenant-right already exists, the Suh-Commissioners and the Commissioners do not feel it to he their duty to fix the value of the tenant-right at all?

I cannot answer that question.

373. With regard to cases of the breaking of leases, cases of leases, generally, which have come before the Commissioners on the grounds of their having been forced upon the tenants by undue influence and threats, is there any form or manner in which is an action of that sort the landlord could ask for particulars of the undue influence, or of the threats of eviction, or anything of that sort?

I do not think so.

374. In fact, up more in this case than in the other? I presume the Court would have the power of ordering particulars to be furnished; but I du not think they should be furnished as a matter of course.

375. Has the arrears clause ever been made use of in any way? I got a return sent up, expecting that I should be asked that question. The time expired on the 28th of February. The number of applications for advances to pay off arrears under the 59th section has been 584; the number of holdings comprised in the applications was 6,635; the amount of arrears of rent due was 84,000 %; and the amount of the amount of the advance applied for was 31,000 L

376. Chairman.] Why to the numbers of the applications and the boldings differ so widely?

The applications are taken by the number of landlords that apply. Each application may comprise a great many holdings. With regard to these figures, it will be necessary to observe that the amount of arrears, and the amount of the advances applied for, are taken from the figures in the applications. It is pretty certain that there are mistakes; but such mistakes cannot be found out until the applications are minutely examined and checked.

377. Then what has become of these applications; have they all been acceded to? They have only just come in ; they came in with a rush at the last day, only

a few days ago. 378. Earl (0.1.)E 2

378. Earl Stankope.] And now so more applications can be made?

No, the 28th of February was the last day."

379. Marquess of Salisbury.] To how many acres does that apply?

3.6. Viscount Hutchinson.] I suppose those applications would be mostly from

380. Viscount Hutchinson.] I suppose those applications would be mostly from Commanght and the West.

I cannot tell you that.

381. Have the Commissioners received any application from any public body under the provisions of the 32nd section, the Emigration Section? None.

382. Marquess of Salisbury.] Are you present at all the meetings of the Commissioners?
No. 1 am not.

383. They hold meetings in private, then? Sometimes I am present, and sometimes I am not.

Conferences 1 am present, and societanes 1 am not.

384. But is there any deputy of yours present when you are not present yourself?

No; they generally meet in private, that is to say, I am not present at the meetings unless I have business to bring before them.

385. Do they make formal orders in your absence, then, sitting quite by them

yes.

380. So that there is a good deal of their business of which there is neces-

350. So that there is a good deal of their business of which there is necessurily no record? In the case of any formal order that they make, one of themselves drafts a

minute, which is placed in the minute book.

387. By you?

Either by me or by the assistant secretary.

388. They have then necessarily no formal meetings, but they can cererise their authority, and do exercise it informally, without any necessary record? No resolution that they take can be acted upon without its in some way appearing on paper, in the shape of a letter or a minute. There would be some outcome of their deliberations.

35s. You have nothing like the meetings of a board with the minute book, in which is entered, "Present, so-and-so; and so-ound-so was done "? Occasionally the minutes are inserted in the minute-book in that shape; "Present, so and-so; such-and-such a minute made," as a rule, the Commissioners are all present; hough, of course, there are exceptions to that. I do not think there is always a tracking, "So-and-so and so-and-so present."

390. Upon such matters as being consulted, for instance, by the Government, they would give that advice without necessarily having you, or any representative of yours present, recording what they did?

Certainly. 1 mercity talk of the public record in the minute book. I pre-

sume that if they write privately to the Government they would keep copies of their letters; but 1 only talk of any public letter going through me.

391. Is a public letter going through you always authorised by a preliminary

minute passed at a meeting, or is it simply due to the instruction of one or other of the Commissioners? I should act on the direction of any one of the Commissioners, decidedly.

392. And you would treat that as the act of the whole body? Yes, I think it is laid down in the Act that each Commissioner has all the powers of the turee.

393. You

7th Morch 1892.] Mr. Gontey.

393. You stated that the cases were put down in the list in the order of their coming in; setting aside those alterations that are made on the ground of eviction, is that order quite rigorously adhered to?

Yes, cases are remitted to the Sub-Cosmissioners for adjudication in the order of receipt. It may be presently to explain that a suction are extended or confidence of the succession of the secreting to the Foot Lew Union in which the bolding is situate, it may east offen does leapen, that an applicant, nowithstanding the first off hirtigate of the result of the sub-flowers and the case long after his subplication, may have his orthogonal control of the sub-flowers are considered to the sub-flowers and the sub-flowers are sub-flowers. The sub-flowers are sub-flowers and the sub-flowers are sub-flowers and the sub-flowers are sub-flowers. The sub-flowers are sub-flowers and the sub-flowers are sub-flowers and the sub-flowers are sub-flowers. The sub-flowers are sub-flowers are sub-flowers and the sub-flowers are sub-flowers. The sub-flowers are sub-flowers and the sub-flowers are sub-flowers and the sub-flowers are sub-flowers. The sub-flowers are sub-flowers are sub-flowers are sub-flowers and the sub-flowers are sub-flowers.

304. Then the list is not recest except so far as is necessary to bring together those which lie within the district which the Commissioners may be dealing with in a single day; I understand you to say that the list is in some sense resst, and that it does not depend upon the mere priority of entry?

Upon that priority, within the Poor Law Union, it does.

305. What Poor Law Union should be taken depends upon where the Commissioners are:

Exactly; they sit in every Poor Law Union; that is their rule.

206. But within the Poor Law Union priority of entry is absolutely

observed?
Yes.
307. And with no deviation from it whatever, except to respect of the ques-

ion of eviction?

That is most distinctly the rule, and I do not recollect any exception. That

there may not have been exceptions I will not say positively.

308. I suppose you receive a great many applications for exception, do you

not?

A great many; and we always say that they cannot be taken out of their turn.

I think there is a qualification under very special circumstances, and a very special circumstance would be the case of an eviction. There might be some

special circumstance would be the case of an eriction. There might be some other special circumstances which would induce the Commission to take a case out of its turn. 309. If it was taken out of its turn it would not be the act of any officer on

399. If It was exact out of its turn it would not be the fact of any officer out the Commission, but it would be by the direction of the Commissioners themselves?

It would not be taken out of its turn unless by the direction of the Com-

mission.

400. And you do not at this moment remember any case of deviation from

the order in the list, except a case of eviction?

I think it the beginning of the Commission, when the thing had not got into proper order, there may have been causes taken not of their turn on some very pressing application. I do recollect one now, because I mayelf was well known for it in the newspapers; they said it was my doing. Some landsed in the country of Kerry, I think, was taken out of this turn; I cannot recollect all the circumstances of the case, but I know perfectly well that the solicite who was acting for the clumes, and that I could be to be at once summarily destinate, or

something of that sort, and that impressed it upon my mind.

(0.1.) E 3 401. But

Moreh 1889 7 Mr. Gonzay

7th March 1882.] Mr. Godler. [Continued.

No.

402. But I presume you had nothing to do with it?

I am not quite sure shout that. I do not think that these roles were a very actively observed as first, and my excellented not file special case though I have actively observed as first, and my excellented not file special case though I have Comblet's case taken sat of its ture. I do not think I had beard of that nipplies, then, however, to consequence of it, it was latted for bearing, and then an application cause before me to remove it again, and I think that what I decided any observation of the combination of the com

403. You have spoken of a certain order which the Commissioners made with respect to costs; have you any recollection of the preliminary proceedings which induced the Commissioners to make that order; was there any application from any aggrieved person?
I am inclined to think that it was on a general review of what was going on.

I am inclined to think that it was on a general review of what was going on, and from observing that costs were being given against one or other of the parties, that the Commissioners, on their own initiative, came to that decision, that the costs should, except in very special cases, be borne by each party.

404. The Sub-Commissioners report what order they make as to costs then, I pressure? Yes, they would make it a part of their order, costs against one party or the

ites, they would make it a part of their order, costs against one party or the other.

405. And those reports would be submitted to the Chief Commissioners in due course, and they, reading those reports, came to the conclusion that this practice required to be altered?

I cannot key that it was upon reading those reports; I would rather say that it was a matter of general notoriety that costs were being given, and its being a matter of general notoriety induced the Commissioners to consider it, and to come to the decision that I have mentioned.

406. And there were oo other matters of general notoriety or matters which arose upon the face of the reports of the Suh-Commissioners which induced the Commissioners to send down any special orders to the way of modifying their procedure or their decisions?
1 do not recollect any other.

407. The case would naturally be so remarkable that if it happened more than once you must have remembered it, I should think?

There was some correspondence or some letters written with reference to the

Assistant Commissioners making speeches. I do not know whether that is the sort of thing that you refer to.

408. Very much. What was said with respect to the Commissioners making

speeches?
They were recommended not to make speeches.

I ney were recommended not to make speeches.

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400. Do you remember what particular speech it was that caused that admonition, whose salutary nature I do not for a moment dispute?

I should prefer not to mention names.

410. Can you give me the date; perhaps that would be harmless?

No, I cannot give the date either.

411. That letter, I presume, could be put in?

I have not got it with me. I think I should have to consult the Commissioners about it.

sioners about it.

412. Will you make a note of that, because it is a very important order, and
1 should like to know the terms in which it was conveyed. I distinctly understand that your order about costs was contained in a letter written by you

7th March 1882. Mr. Godley.

before the question of the well-known appeal came up, in which the Commissioners made an observation?

Yes, that is my distinct recollection.

413. I think we have now before us three cases in which special instructions were given by the Commissioners; the question of costs; the question of receiving hospitality; and the question of making speeches.

414. There was no other matter that you remember that the Commissioners thought it necessary to warn the Sub-Commissioners upon in the course of their proceedings?

There was another letter, desiring not only the Assistant Commissioners, but

everybody connected with the office, not to write or to give any information for the public press on matters connected with the office.

415. Do you remember whether the prescription not to make speeches had

reference to observations made independently of cases, or to observations made in giving reasons for decisions? I think the letter that I refer to was written with regard to general observa-

tions, and not with respect to any special case.

416. And I suppose it was a circular; it was not addressed to any particular percent Sub-Commissioner? No.
417. There has been a very general impression that justructions of some kind.

reached the Sub-Commissioners, and I think that has been a good deal founded upon a naturement ranke by Professor Baldwin, to which I do not know whether the professor baldwin and I for the professor baldwin and I had not know whether Professor Baldwin and I for said: "In adjudicating on this case, we have been guided by the principles which my colleagues and I laid down for our own guidance before we commenced our labours in the Court House, Baldwin Were though the professor of the Court March and the Court Monte of Were though principles ever reported to the Commissioners: hat's breadth."

No. I am sure they were not.

418. They have never come under your observation at all?

No, certainly not.

410. You would be totally unable to say what Professor Baldwin meant?

Absolutely.

420. You do not know whether the Commissioners ever applied to him for a

communication of those principles?
I should think they had not.

421. It is not within your knowledge that any communication was addressed to the Court with respect to that observation?

422. You have spoken of the Commissioners going upon the land, and you say that there was no instruction to them to do that, other than the general instruction contained in the general rules; is there any rule with respect to the expenses that they incur upon those occasions?

Their expenses are paid out of the funds at the disposal of the Commissioners.

All their travelling expenses come up in a regular monthly schedule to be examined and checked, and if found correct, so far as we can check them in the office, paid.

423. They are taxed in the office?

They are tased in the office. That is one of my multifatious duties, to check Sub-Commissioner's express. There is a clerk whose special business it is to look after these things, is is extremely strict, and is always fighting in the way that an audit office would, checking anything that he sees wrong, and in coastant correspondence with the Assistant Commissioners; he always brings these matters to rue, and we keep the thing cut down as carefully as we can.

(0.1.) E 4 424. You

7th March 1882.] Mr. Gonley. [Continued.

424. You have no general allowance for the expedition of a Commissioner to a form?

No. They get an allowance for every night they are out for hotel expenses, and they are suited to charge besides their abodics not of leomonotion, and they are suited to charge besides their abodics not of leomonotion, and they cannot produce a receipt for a cash or a car than he taken off a stand, but if he takes a car from a hotel and travels 10 or 12 miles, he generally can give a receipt; and if we see a large charge for travelling on a particular day we not consider the suited of th

425. I think it is stated that there are certain prescribed qualifications, which are mentioned in the rules, for the Sub-Commissioners; but the person to apply those pre-oribed qualifications is the Lord Lieutenant; does to make to the Commissioners any intimation that comes under your official cotics of the nature of the qualifications that each person appointed possessire.

No.

426. Does he give any indication that he has satisfied your rules in that

420. Does he give any indication that he has sansted your roots in that respect?

I think not; he merely communicates the names of the Assistant Commissioners that he has appointed. The grounds upon which they have been ap-

pointed are never stated.

427. Do the Commissioners take any notice of the question, whether or not the Lord Lisuteman has compiled with their rules, which in this matter have a statutory authority?

No. 428. Is nothing laid before them to enable them to see that their rules have been complied with?

been complied with:
No.

429. Then for all the Commissioners know, the rules, though they have a

statutory authority, may have been treated by the Lord Lieutenant as absolute waste paper? I should scarcely like to go so far as that.

430. I do not mean to say that they have been, but so far as any review takes

40

place in your office, they may have been treated with entire disregard?

So far as I know, no explanation of the reasons for appointing Assistant Commissioners is furnished to the Commissioners.

4.31. And of course if anything in the nature of a recommendation went from the Commissioners to the Lord Lieutemant, it would be of an unofficial character, and would not come under your notice? Onite so.

432. You mentioned with respect to the first of these documents that you issued, that you were not secretary at the time it was issued; had you any predecessor?

decessor?
There was an acting secretary from the 22nd of August up to the time I was appointed.

433. This note says: "Any person requiring information can apply by letter to the Secretary to the Land Commission"; so that I presume you must have been apprinted by that time?

to the Secretary to the Land Commission; so that I presume you must have here appointed by that time? I had nothing whatever to say to it, and I knew nothing about it, and I believe it was issued hefore I was appointed; but without seeine the date I could not

answer the question. I know that the date on which I was appointed was the 5th of September. 424. With respect to Mr. Fottrell's pamphlet, you say that this pamphlet was laid on your table, and that the order that it should be purchased was

Aga. What respect to the rotten's pampines, you say that this pampines was laid on your table, and that the order that it should be purchased was initialed by you; was there any memorandum from anyone in the office recommending it to you?

No.

7th March 1882.] Mr. GODLEY. [Castissed.

No. none; Mr. Pottrell himself said to me that it contained useful infor-

435. You went entirely on his verbal recommendation?

Í did.

436. And you had no recommendation from any other person?

No.

437. Because it will no doubt occur to you that the officer, whoever he was,

who revised the pamphlet, must have had full cognissance of the objectionable matter which it contained? A No doubt; hut I do not know that any officer in the establishment did revise

it. Somehody must have revised it, and anybody who revised it must have read it.

438. And an officer reading it and not bringing to your knowledge that objectionable matter which it contained, must have been a person with very strong sympathies for one political section?

A man might be asked to revise such a document, and it might never come into his head that he was to look out for political remarks in it.

439. Do you not think be must have been a simple minded person if he issued a Government document praising Davitt?

I think so, indeed.

440. I think you were on the Church Temporalities Commission before this?

1 was.

441. There were a very large number of holdings still remaining to be sold
when the Church Commission was merged into the present Land Commission.

No, not many.

were they not?

442. Had you sold everything?
We had sold, I may say, everthing except the property belonging to a certain number of elergymen who had not commuted their glebes. There were some-

where near 40 of those.

445. We rey so selling up to the last moment of your transmustation? We were monitarily ve had complish with the stattette of its at to offer to each treast his helding; but in case the treastet did not buy we find not put to the contract of the contract

444. If I understand your former evidence up to the last moment, when that evidence was given in 1878, you were selling land at 30 years' purchase?

evideoce was given in 1878, you were selling land at 30 years' purchase?
Yes; we were selling land then for anything we could get. There was a
very great demand for Isod then. There were many cases, I suppose, in which
we got fully 30 years' purchase.

445. And that continued up till when?
I think the demand for land heran to fall off about the end of 1879.

446. But those estates were generally estates upon which the rents had been

screwed up very high 1
I think the chergy used to let their land at about the same rate as the neighbouring land; I should not say that it was higher or lower. Certainly the tendency upon the part of a clergyman who had only a temporary interest was to scree it up; but I do not think that our experience was that the Church lands were higher let than other.

(0.1.) F 447. Have

7th March 1882.] Mr. GODLEY. [Continued.

447. Have any of the lands which you sold to the public at 30 years' purchase

of high rents come back hefore von in your new form?
Yes, there are complaints made on the part of the tenants who bought their holdings that they bought at a time when rents were high and land was high. They ask now to have their annual instalments of outstanding purchase money

reduced.

42

448. Which you decline? Of course there is no power to do it. The purchasers of the residue of those estates, members of the public who bought land that was not bought by the tenants, also complain that the tenants have or are going to have their rents reduced, and that we are requiring them to pay a full instalment.

reduced, and that we are requiring them to pay a full instalment.

449. Has any suggestion of restitution been made to you?

The sufferers have made a suggestion; but the Commissioners, of course, are

The sufferers have made a suggestion; but the Commissioners, of course, are unable to move in the matter. They are bound by the law. I think it is a very hard case myself.

450. Earl Stankspe.] I think, lately, the Head Commissioners decided that they would only have appeals of a juddial character; is there anything in the Act under which it is laid down that the Head Commissioners should only have appeals with regard to questions of a judicial character and not questions raised as to the fair rents fixed?

There was no such decision. In every appeal they not only decide points of law, but they also go most carefully into the value. They have paid valuers, in order to assist them on that very point.

451. Chairman.] As between the Commissioners and the Suh-Commissioners it to not report up appeals it is a un benefit a

sioners, it is not properly an appeal; it is a re-hearing?

It is called a re-hearing in the Act of Parliament.

452. Marquess of Salisbury.] And it is looked upon absolutely as a hearing de noro?

That is what I understand it to be. I do not feel absolutely confident whether they can admit new evidence. My own impression is that they can, and that they always do; but I cannot be qoite positive.

The Witness is directed to withdraw,

Ordered, That this Committee he adjourned to Thursday next, at Twelve o'clock.

Die Jovis, 9º Martii, 1882.

LORDS PRESENT:

Dake of NORFOLE.

Dake of SOMERSET.

Dake of SUPILIZATION.

Lord TENONE.

Lord CARTSPOINT.

Lord KEET.

LORD BEADOUTERS.

THE EARL CAIRNS, IN THE CHAIR.

MR. DENIS GODLEY, C.B., is called in; and further Examined, as follows:

- 453. Duke of Somerset.] THE Land Commissioners meet together to operoon, I suppose? Yes.
 - 454. Are you present at the meetings of the Commissioners? Sometimes I am, and sometimes I am not.
- 455. Are you present when they meet judicially, or oo what occasioos?
 They generally ask me to come when they want me; if they do not want me, they do not ask me; they deliberate alone. There is no rule.
 - 456. You never go except when you are invited to do so?
- 457. Chairman.] When they are sitting as a Court I suppose you have no duty to perform?
 None whatever.
- 458. It is the registrar who attends them then?

Earl CATRNS.

- The registrar performs the usual duty of a registrer. He takes down, I suppose, a short minute of what is dooe, for the purpose of drawing up the order afterwards.
- 459. According to what we are accustomed to in the Courts of Law; he calls on the cases and takes a minute of the order, and so on? Yes. The Commissioners have a regular court fitted up in the house in
- Xes. The Commissioners have a regular court I have nothing to do with their proceedings.
 - 460. I suppose the registrar swears witnesses, and so on?
 He does all the usual thiogs. I have only been in that court twice, I think.
- 461. What duties have the Commissioners to perform, ministerially, I mean, other than their judicial duties?
 They are, of course, responsible for the whole administration of the office, and on every point on which I am doubtful I at once refer to them. The general
- superintendence of the administration is carried on by myself, subject, of course, to their instructions and to my consulting them on every point on which I believe I ought to do so.

 462. Duke of Somerset. | I suppose you, as sccretary, open all the letters that
- 402. Drike of Agaserset, I a suppose you, as secretary, open an time section are written to the Commissioners, do you?

 (0.1.)

 F 2

 All

9th March 1882. Continued.

All the letters addressed officially would be opened in the secretary's department, but I think that letters addressed personally to any of the Commissioners would be left mon his own table, even though they be not marked "private." Every letter addressed, for iostance, to Mr. Justice O'Hagan would be left on Mr. Justice O'Hagan's own table, to be dealt with by himself.

463. When there is an appeal or an application for a re-hearing, does it come to you from the parties?

Certainly. That would be an official letter, which would be addressed to the

secretary, and would be opened in the secretary's department.

464. That would come regularly to you?

44

Certainly.

465. And you would submit it to the Commission, I suppose, or what course do you pursue in that respect?

There are great numbers of applications for a re-hearing. The Commissioners' instructions are not taken upon each individual case, but the application is entered in a book which is kept for the purpose of entering cases in which applications for re-henring are made. Of course before the Commissioners proceed to re-hear cases, they inform themselves as to what applications there are for eases to be re-heard, and if there is anything special in any case it would he brought specially under their notice; but there are a vast number of applications for re-hearing, and they do not go to the Commissioners, as a matter of course, at once. The first thing is to enter them in a book,

466. They are entered in a book kept for the purpose? Yes.

467. Do they remain there, or what happens?

They remain there until the time comes for the re-hearing. There have been very few cases re-heard vet.

468. Do you mean that the Commissioners never refuse a re-hearing? I suppose they have the power of refusing a re-hearing, but I do not think it has ever been contemplated to exercise it.

469. Chairman.] Surely if a re-hearing is applied for within the prescribed time, it is a matter of right?

So it is understood, and I believe it to be so. I have never heard it questioned. 470. If it is applied for after the prescribed time, of course it is within the

discretion of the Commissioners whether they will relax the limitation or not ? Yes; and under one of their rules they can enlarge the time.

471. You mentioned the other day the instrument of delegation by which the

Commissioners delegate power to a Sub-Commission; have you got it? I am sorry to say that I forgot to send for it. I sent for several things, of which I took a note the other day, but unfortuoately I omitted to take a note of that at the time. However, it is a Paper which can be sent.

472. Will you kindly make a note of it, and have it sent? Certainly. Perhaps you will allow me to refer to a slight insecuracy of mine

in my last evidence. It only occurred to me afterwards. It is probably of no great importance to the Committee, but it is of some importance to myself. because I am so often misrepresented, and people take such advantage of the least mistake I make. In some cases I am represented to be a Fenian, and in others to be in collusion with the landlords, as I might be in this case, and therefore I am forced to be extremely particular,

473. What is the correction which you wish to make? It has reference to an answer in which I informed the Committee that a case had been taken out of its turn before a Sub-Commission. The real facts, as I recollected when I went home, were these. The case to which I alluded

Was

was the case of a landlord named Crosbie. He was in the list of cases for hearing; an application was made to take him from the middle of the list where his case stood, and place him at the bottom. That application was complied with; I cannot recollect exactly upon what grounds, but I know it was complied with.

- 474. His case was taken out of the middle of the list and put at the bottom? Yes; I said that his case was taken out of its turn; the fact was that it was put at the bottom of the list instead of being in the middle. Very strong complaints were made by the tenauts' solicitor that it had been put down. and the way in which it came before me was that it having been once removed from the middle to the bottom of the list, and the persons comcerned having received an intimation that it was at the bottom, I decided to leave it at the bottom instead of reinstating it in the middle. I should not have reinstated it in the middle without taking the Commissioners' directions. but as I found it at the bottom I left it there.
- 475. As you have referred to that subject, I should like to ask you a question which I forgot to put to you the other day. You explained to us that the county lists were made out in Dublin and sent down to the Sub-Commissioners to be taken by them as they were sent down. That is what the Commissioners do in Dublin; but suppose a Sub-Commission departed from that and changed the order of hearing (I do not say they do, but suppose they did), is there any check upon it in Dublin ; would it be known to you if that took place? It certainly would be known if any of the parties made a complaint.
- 476. Lord Kesry.] Would it appear upon the orders or the minutes of orders sent up by the Sub-Commission?
 No, I think not. I flo nor think that the fact of a case which was on the
- list being heard out of its turn would appear in that way. I have never heard any complaints of the Sub-Commissioners taking any cases out of their turn in the lists submitted to them, and my belief is that they never do-that they always take the lists and go regularly down them from the top to the hottom.
- 477. Chairman.] Perhaps you are aware that complaints, whether wellfounded or not, have been made publicly on the subject? Yes, I have heard so.
- 478. Duke of Somerset. I understood you to say the other day, that when there are evictions they take those cases first? Yes, that is the rule. Those are the only cases which they take out of their turn, except under very special circumstances. The list or roster is kept in the order of receipt at the office.
- 470. Then if a landowner wishes the cases relating to his property to be brought on, it seems to me that his best plan is to evict; is that so i
- I really could not give an opinion as to what his hest course would be.
- 480. Lord Kenry. Are you aware whether the Sub-Commissions ever change the place of hearing; that is to say, hear cases which are put down for one union, in another. Supposing they found it more convenient to the parties interested to hear a number of cases in another union, and not in that for which they are listed, would they have the power of doing so?

 That is a case which has very often occurred. The parties concerned find it
- more convenient to have their cases heard, for instance, not in the town which is fixed for a sitting, but at some place nearer the farms or holdings in question, and then they may apply to the Sub-Commission to adjourn to such nearer place, and sit there for the purpose of bearing the case, and the Sub-Commission has discretion to adjourn to such place with the consent of all the parties con-
- 481. But that might have the effect of bringing on a number of cases, which were low down in the list, several days before they were expected to come on, might it not? (0.1.) **F** 3 No:

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9th March 1882.] Mr. GODLEY. [Continued.

No; I presume that the Sub-Commission would only entertain this applica-

No; I presume that the Suh-Commission would only entertain this application for adjournment so as to take the cases in the order of the list.

482. Chairman, I but in the list to which they were transferred, what place would they occupy. Suppose a case at the head of a list in one place was called on, and both parties said, "It is much more convenient that this should be heard in another union or another district," and the Sub-Commission said, "Very well, be it so." In what place in the list to which it was transferred "Very well, be it so."

would it be put?

46

It would not be transferred to another list; it would be taken to be in the list which was benefore the Sub-Consission, and would be feel swith draught that sitting. I do not know whether I make myself intelligible, but perhaps I and heterer these instance. Take the case of Carlow. Both he perials consistent of eastern and the state of Carlow. Both he perials consistent to the state of the state of Carlow. Both he perials consistent to the state of Carlow. Both he perials consistent to the state of Carlow. Both he perials consistent to the state of Carlow. Both he perials consistent to the state of Carlow. Both he perials consistent to the state of Carlow. Both the state of Carlow Both and the state of

483. To go to a place at which they otherwise would not have sat? Yes.

484. Lord Kenry.] But they would still take the cases in the original order?

Cer?auly; they would take the cases according to the list which was sub-

mitted to them for the siting; in the case I mentioned it would be Carlow. Perhaps your Lordhaja will allow me to refer that legal in some other point in my former evidence. The todde Marquess who is now present saked me two or three questions which I todo notes of. One was as to there being column in the Ministe of Order for entering the annual value of the tenant's improvements, and the Sub-Commissioner might put down the annual value of the tenant's improvements, showing how they are influenced by that in fixing the jointial real.

485. Lord Tyrone.] I asked you whether there was any such column in any of the forms?

I will explain to you how that stands. The Commissioners have been guided

I will expain to you now that stands. The Commissioners have been guided by experience in these matters, and from the 12th of December to the 16th of February the forms furnished to the Sub-Commissions did contain a column, or rather not exactly a column, but an arrangement by which the annual sum deducted in respect of tenants improvements was to be noted. That is the form which was in force between the dates I have mentioned tyredexing the contraction of the sub-respect to the sub-respect to the contraction of the sub-respect to the sum of the sub-respect to the sub-respect

Paper B.).

486. Lord Brabaurue.] Then in every case of the fixing of a judicial rent, have the Chief Commissioners that information hefore them?

That was for the Sub-Commissioners.

487. Did I not understand you to say that that information was transmitted

to the Chief Commissioners upon the Minute of Order?

So long as that form was in force, the information which should have been given in the form would have been transmitted with the Minute of Order if that

column had been filled up.

488. Therefore the Chief Commissioners then knew in what way the judicial rent had been fixed; that is to say, what deduction from the old rent had been made on account of tenants' improvements and what had been made or any other

reason?

They would have known during the period that I have mentioned how far the rent was reduced in respect of the tenants' improvements if the Sub-Commissioners had filled up that column.

489 Do they not fill it up? It is no longer in force.

490. Chairman.]

9/A Morrel 1889 1	Mr. Gontry	

490. Chairman. You were going to explain how it came to be given up : Yes, it was given up on the 16th of Fehruary, because the Sub-Commissioners, whether because they found it impossible to fill it up, or whatever the reason may have been, did not in fact fill it up. It was only in force from the 12th of December to the 16th of February, and during that period (1 wrote over to the

office to inquire about this), in almost every case they did not fill it up.

491. Do you mean that they disregarded it altogether?

So I am informed to-day: "Fram the 12th of December to the 16th of February the Minute Order books issued to the Sub-Commissions contained two columns, namely, 'Estimated value of tenauts' improvements,' and 'Annual sum deducted in respect of tenauts' improvements from present rent in faxing judicial rent. The Assistant Commissioners represented to the Commissioners that in the majority of cases it was impossible to fill up those columns, and the Commissioners upon an examination of the Sub Commission returns found that no entries were made under these headings in most cases, The Commissioners considered that the value of the return in the majority of cases would not be sufficient to make it desirable to retain the two columns, which I have mentioned, in the Minute of Order, especially when it is borne in mind that the nates of the Legal Assistant Commissioner would supply what information was procured in any particular case about which further information might be sought.

442. If the notes of the Legal Assistant Cammissioner gave this information, there would be no difficulty in transferring it into the Minute which was produced? So it would appear.

403. You have stated that the Assistant Commissioners made a representation to the Commissinners upon the subject; was that representation in

writing? I should think probably not; in fact I am quite sure it was not. I have no record of it: probably it was made in conversation.

404. But the Assistant Commissioners are, we understand, 36 in number, and they are in different parts of the country; was it the case that they were agreed upon this representation or that individuals among them made representations?

Individuals amongst them, I assume, made representations. They occasionally came up to Dublin and speak to the Commissioners, and it may have been done in that way. I am aware of no record of it; there may be a record, but I have no recollection of any such application as I have alluded to. You will recollect that I referred in my furmer evidence to a circular in which the Sub-Commissioners were ordered not to accept hospitality. In that circular which was printed, I find the following direction: "It shall be the duty of the Legal Commissioner to keep a book in which all the praceedings of the Sub-Commission shall be entered, and especially be shall make a nute of the substance of the evidence given before the Sub-Commission." I do not know whether your Lordships would wish me to read this circular; I propose to hand it in.

405. If you will band it in, that will be sufficient; but is there anything in that circular calling the attention of the Sub-Commissioners to this particular part

of the return with respect to the tenants' improvements? No, there is not. I hand in the circular (handing in the Circular marked C.).

496. Lord Tyrone.] When was that circular issued? It is not dated, but I see by the printer's mark at the bottom that it must

have been issued in November last, 497. I anderstood you in say that the Minute which you referred to just now, containing the column with respect to tenants improvements, was issued on the 12th of December?

Yes, the second Minute was issued on that date. There were three Minutes of Orders. I have here the first one (kanding in a Paper.). The Sub-(0.1.)Commissinners

Continued.

9th March 1882.7 Mr. Godler.

Commissioners were desired to fill this up when they first went out on the 26th of October. This was in force until the 12th of December.

498. It had not the "Estimated Value of Tenaots' Improvements" column?
No, it had not. There was a third Minute of Order, and that is the one
which is now in force. I will hand it in also (kanding in a Paper).

which is now in torce. I will hand it in also (handing in a lager).

499. That is without the "Estimated Value of Tenants' Improvements" column?

Yes.

5co. I suppose you were aware that that column was added to the forms

when it was done on the 12th of December?

The Commissioners were aware, of course, because they did it; and I may be presumed to have been aware, thoogh I cannot say that I recollect it at this

moment.

501. Do you know why the Commissioners added it to the form?

I can only say that they thought at that time that it would be valuable information, and that it could be furnished. It is impossible for me to say what was

mation, and that it could be furnished. It is impossible for me to say what was passing in their minds; I do not recollect that point belog discussed in my presence.

502. You were aware that it was withdrawn? Certainly.

503. Because the Suh-Commissioners, or some of them, said they could not fill it up?

For the reasons which I have read from a letter which I received from the

office this morning.

504. You were not aware of it officially in any other way?

No, in no other way.

505. From the knowledge you have of the working of the office, would you not think the ioformation that would be given in that column would be very valuable?

I should think it would; that is my own private opinion.

560. Chairman.] We do not understand from whnt you have said, or from what you have read from that letter, that the Commissioners themselves thought otherwise; they did not change their minds about the value of the information, but they found a difficulty in getting it?

They found a difficulty in getting it, and they thought, for the reasons I have stated, that in any particular case they would get the information they required from the notes of the Legal Assistant Commissioner.

5u7. Lord Tyrone.] But this being a court of record, would it not he necessary that the facts which would be returned in that column should be recorded if possible?

It was noon that point that the Commissioners decided otherwise, and deter-

It was upon that point that the Commissioners decided otherwise, and determined that they would not any looger call upon the Assistant Commissioners to furnish that information.

508. Viscount Hutchisson.] The fact remains that at this moment there is no record of any sort in the archives of the Commissioners of what is deducted from the gross rent for the tenants' improvements when a judicial rent is fixed by the Sub-Commissioners?
That is not recorded in their Minute of Order, but the Legal Assistant Commissioners.

missioner is directed to keep a book containing the evidence placed hefore him; and the Commissioners, I presume, are satisfied that they can get any explanation that may be necessary in any particular case from that note book. 500. But that is not a public document; it would not be a record of the

Court, would it?
No, it is not made public.

9th March 1882.7 Mr. Godley.

510. Lord Kenzy.] Would it be of any legal value in the event of a farm-holding coming to be re-valued at the end of 15 years;

I cannot tell you that.

511. Chairman.] If the Assistant Commissioners, who I suppose included the Legal Assistant Commissioner, found a difficulty in writing it down on our piece of paper, probably they or he would find an equal difficulty in writing it down upon the other?
I cannot express an opinion upon that.

512. Lord Breburne, I is there any record that would be available at the end of the first 15 years, showing the grounds upon which a Sub-Commission came to a decision which may not be appealed against now, but the grounds of which it may be most necessary to know 15 years hence?
So far as I know there is none, except the Assistant Commissioner's note-

So far as 1 know there is none, except the Assistant Commissioner's not book.

513. Which is not a record that would be available to the public?

I cannot tell whether it might not be made so; perhaps it might.

514. Viscount Hutchinson.] Not only in view of cases of re-settlement of rents 15 years hence, but also in view of immediate decisions of the High Court

of Appeal, does it not strike you that it is very important that there should be some record or some data of that sort?

In any re-hearing of a case, the Land Commissioners, as the Court of Appeal, would go into that matter themselves, I presume, upon the report of their own

valuer. Their plan is in every case that they re-hear, to have every holding valued, and the valuer will report to them upon the tenant's improvements.

515. But even at a previous stage to that, unless the Sub-Commissioner

makes some statement of that sort, a suitor may have no grounds given to him to appeal at all? Your Lordship means that the suitor would be ignorant of the reasons.

10th Lordship means that the suitor would be ignorant of the reasons.

516. The suitor would not know whether the rent had been reduced on

account of tensus's improvements, or for any other reason?

I am not mave whether the Legal Assistant Commissioner, who gives the judgment, gives the reasons for reducing the rent in every case; but I facey in most cases in states the reasons when he is giving his judgment. There is no efficial record of the judgments given by the Assistant Commissioners, and, therefore, I cannot say that I know the fact. I merely, like other people, read

therefore, I cannot say that I know the fact. I merely, like other popils, read the newspapes, and I see that they do give their reasons very often, and those reasons, of course, would include the amount doubted in respect of the tenant's improvements. 517. Chârman I should like to ask you a question as to your own opinion

517. Chairman.] I should like to sak you a question as to your own opinion from your knowledge of Indi, and of proceedings in Ir-india of you not think that it would be of very considerable advantage, both with reference to the whether they should appeal or ma, if what I may call the abstract what of the land were kept separate in the reports of the Sub-Commissioners. From the value of the tensate improvement. I will explain what I man all those the times are improvement of the sub-Commissioners. From the value of the tensate improvement of the sub-Commissioners from the value of the tensate improvement of the sub-Commissioners. From the value of the tensate improvement of the sub-Commissioners from the value of the

and ne is entirely in the cark?

Yes, unless a distinction is drawn in the Sub-Commissioner's judgment. If
your Lordship asks me my private opinion, I may say that I think it would be

very desirable to keep the two things quite distinct.

518. Lord Brabourne.] Is that distinction generally stated in the Sub-Commissioners judgments? G I am

9th March 1882. Mr. GODLEY. [Continued.

I am not able to tell you that, because I only read them in the newspapers.

- 510. I understand you to say that the private notes of the Sub-Commissioners are available now when the Chief Commissioners have a case to re-hear? Yes, certainly.
- 520. But there is no provision by which they will be available 15 years hence?
- Unless those note-books are then available. 21. But I understand that they are private note-books?

They are not private books; they are kept for the purpose of informing the

- Commissioners; therefore I cannot say that they are in any sense private. I presume it will rest with the Head Commissioners to say whether they will make them public, that is to say, present them to Parliament, or use them in any other way; but they are in no sense private as between the Assistant Commissioners and the Head Commissioners.
- 522. Not at present? No. In the instructions which I have put in the Sub-Commissioners were expressly ordered to keep those notes, and there would be no reason for that order unless they were bound to produce them.
- 523. Then are they public records which can be referred to hereafter? Certainly, they are public records now; how long they may be available for
- that purpose, I cannot say. 524. Lord Tyrone.] Let me ask you, in your own opinion, and with your knowledge of the mauagement of land, and the mode of arriving at decisions as
- to property in Ireland, how is it possible that a Sub-Commission could come to a fair decision as to the value of the improvements made by a tenant, if they are not able to write it down? I cannot tell you that. 525. Viscount Hutchinson.] You say that, as far as you know, there was no
- actual application in writing on the part of the Sub-Commissioners to remove this particular item or column from the form? I am almost sure there was not, because I should recollect it if there had
- been; it would come before me in the natural course of things.
- 526. I suppose you are aware that a solicitor has asked in court for that distiction to be made; perhaps you are not aware of that officially?
- It seems such a very natural application, that I can quite understand that it should be constantly asked for; but the proceedings in court are in no way submitted to me. There is a great deal of conversation and argument and discussion there, with which I have nothing to do.
- 527. Chairman.] Before we proceed to any other matter, is there any other point as to which you wish to supplement your former evidence? A Member of the Committee (I believe it was a noble Marquess who is not
- now present) asked me with respect to a letter to the Assistant Commissioners respecting observations in court. That I have sent for. I believe I was asked to produce all directions to the Assistant Commissioners. This is a copy of a letter which I wrote by direction of the Commissioners to the Assistant Commissioners with respect to the observations in court (producing a letter).
 - 528. Will you read it?
- "Sir,-Representations having been made to the Irish Land Commissioners on the subject of observations published in the newspapers as having been made in court by some of the Assistant Commissioners, either on the occasion of giving judgment or in the course of the hearing of the case, I am directed by the Irish Land Commissioners to state that, in their opinion, in which they feel confident you will concur, the Assistant Commissioners, both legal and nonlegal, will be acting most judiciously, and will take the course best adapted for the successful administration of the Land Law Act, if they will refrain from everything in the shape of an address to the public; and will confine themselves exclusively

9th March 1882.7 Mr. Gopley.

exclusively to the necessary explanation of the grounds of their decision. The duties of an Assistant Commissioner are of a most difficult and responsible nature, and it will be impossible to discharge them without occasioning some bitteroess and ill-feeling. It is most important, therefore, to avoid every cause of needless irritation, and it may be feared that parties who think themselves aggrieved by the decisions of the Sub-Commissions may consider any address that may be delivered beyond the mere announcement and explanation of judgments. as coming under that description. The Commissioners would consequently urge upon yourself and your colleagues the necessity of a careful reserve and of an abstinence from all such observations in court as might, by any possibility, produce exasperation." I have already put in another circular (it is marked D.) which was sent to the Sub-Cummissions. It cootsins a good deal more than I said on the last occasion. I alluded to it on Tuesday as being a direction to them not to accept hospitality, but there are a good many other points in it besides that. I was asked by one of your Lordships what the rule was now with respect to costs, and also when that rule came into force; whether it was only at the time of the Court of Appeal sitting, or previously, I said "previously," I now find that that memorandum was dated on the 17th December; it is in these terms: "The Commissioners desire to make the following suggestions relative to costs, for the guidance of the several Sub-Commissions. In cases where no special circumstances exist to connection with the conduct of the landlord or the tenant, proceedings should not be regarded in the light of a litigation to assert definite legal rights, but as proceedings before an importial tribunal to ohtnin its decision upon a question as to which opinions may reasonably differ. Under such circumstances, and spart from the exceptional cases above referred to, it would, the Commissioners think, he hut just that each party should shide his own costs. When costs are given, the amount should be stated in the order. Ordinary costs should follow the scale in the schedule to the General Orders, but where additional costs are given in respect of witnesses, &c., those witnesses ooly should be allowed who are deemed to have been necessary, and the amount allowed should he specified. Such amount may be added to the costs limited by the General Order, and the adjudication should state the gross amount, "as for costs and expenses of witnesses." The costs to be given against the opposite party in respect of skilled witnesses called to depose as to value should not exceed 1 l. 1 s., but this does not apply to an independent valuer appointed by the Court pursuant to the Act. With respect to such independent valuer, the Court should at the time of his appointment fix his remuseration, and

should at the time of making its adjudication determine by whom and in what proportion the expense should be borne."

550, Lord Zyrase, There was another question which I asked you on the last occition, namely, whether there was any errangement among the Chief Commissioners with regard to a power of strorney being given to agent; can you answer that onesion more

You saked whether the agent could sign a judicial agreement binding his principel to a judicial rent without heing armed with a power of attorney or some document to show that he had the authority of the landlord. 1 do not think I undertook to give you an answer to that question to-day, but I undertook to make inquiry about it.

530. And to inform the Committee? Yes, I will do that.

531. You stated on the last occasion that you did not consider that there was a block in the courts?
Yes, I said so.

532. What reason have you for not considering that there is a block in the courts; do you think that the number of cases decided lately has been in excess per month of those decided before?

Yes, very largely in excess. What I stated I believe, or at all events what I meant to say, was that although there is an immense amount of business, yet the general proceedings have been so accelerated lately that I look forward to the (0.1.)

a 2

Mr. GODLEY. 9th March 1882.7

cases being decided within a very much shorter time than you thought was likely; and therefore I could not say that there was a block of business when I thought the cases might be decided within a reusonable time.

Continued.

agreements

533. Has not the number of cases lodged during the last month greatly exceeded those which have been decided in that time?

I think they have now about reached their level. I believe that the cases which are now coming in, and the cases which are decided, are pretty much in the same proportions; but I do not bind myself to that, because I do not recollect all the figures.

534. Your own returns do not agree with that at all? My observation applies to the present time.

535. Of course the returns we have only come up to the 24th February?

Yes; I will explain what I mean. Between the 28th January and the 24th February there were almost as many cases decided, both in and out of court, as there bad been in the previous four months. 536. Do you mean decided in court?

No, both in and out of court.

537. Then you calculate the two together; you do not take only those decided in court? I do not profess to go with absolute accuracy into the figures. I believe

there were not quite so many decided; but the rate of progress has enormously iocreased in the last three weeks. 52S. In court?

Both in and out of court.

539. Chairman.] But the information which you gave us on Tuesday was this: The cases " are coming in even now at the rate of, I should say, from 100 to 150 a day; some days more and some days less." I said, "That is aboot 1,000 per week then." Your reply was, "I should think there would, perhaps, be rather under that. They have fallen off rather lately." But suppose it to be 800 a week; are they running off at that rate?

No; I am afraid I could not say they are running off at that rate. 540. Taking both the decisions and the settlements, they do not amount to

anything like that? I think we have had as many as 160 judicial agreements come in in one day. I cannot carry all the figures in my head, but I believe that is about the

number. 541. Probably they had been accumulating at some particular place for

Some estates will send in a vast number of agreements to fix rents in one day. These agreements are coming in, I thick, more rapidly every day.

542. Lord Tyrone.] You know these two returns, your first return of the 28th January, and the second one, which has just been published (handing two returns to the Witness)? Yes.

543. I find by those returns that, taking the month, as we may call it, from the 28th January to the 24th February, there were 4,963 cases lodged? Yes.

544. And during that time, as far as I can make out, exclusive of the agreements out of court, there were 1,824 judicial arrangements made in court?

545. Would not that show that the number of cases lodged greatly exceeded the number of cases decided? No. I refer to the agreements out of court, as well as to the adjudications, because of course they diminish the block; because a great number of those

9th Murch 1882.	Mr. Gobler.	Continued.
agreements out of	court relate to cases which were	the subject of originating

notices.

- safe. But there are only 2,180 of them, according to your return? I do not profess to say that they are as many 1 but I think the rate of progress has been so very much accelerated lately that I look forward to its being still more accelerated, and to the case being decled even more rapidly I may say much more rapidly than they are one via fact, I look forward to a general settlement out of coart, and that, I think, would completely relate to
- 547. Chairman.] To go to another subject, will you be good enough to tell me what is the name of the department in the Land Commission which has to deal with the question of purchases by teamts?
 - We call it the department for working or managing Part V. of the Act. 548. Who is at the head of that department?
 - Mr. O'Brien.
- 549. I forget whether you told us whether he was taken over from the Church Commission?

 He was an officer under the Church Commission.
 - 550. What was his office under the Church Commission?
 - 250. What was me once under the Church Commission? Valuer of land.
- 551. There are two sections, I think, of the Act which are priocipally concerned with this question of purchases; the 24th, which relates to leans to tennats for the purpose of purchasing their holdings, and the 26th, which relates to the purchase of estates from landlords for the purpose of re-selling? Yes.
- 552. Can you tell the Committee what is the total amount of work that has been done under those two sections? There has been a return published of that.
 - 553. Up to what date does that return go?
- Up to the 28th January. It gives all the transactions that have taken place under that part of the Act up to the 28th January.
- 554. What is the aggregate amount of advance that has taken place under the 24th section? The 24th and 25th sections are lumped together. The advances made under
- the agent and appropriate and temperatogener. The advances made under those sections amount to 7,817 t. 555. And under the 26th section?
- Under the 26th section the advance obtained from the Commission is 1,579 L
- 556. Since the 28th January are you able to say whether there has been much husiness transacted?
- I think there have only been applications made in respect of two estates, one of which was Lord Lansdownes. Lord Lansdownes, I think, applied to the Commissioners to negotiate a sale to his tenants, and that is now progressing, and there was one other estart, he name of which I forget. I think those are the only two cases of that kind which have come on since the date of this return.
- 557. Taking, first, the case of a tenant purchasing his holding from the landlord; as I understand it, the tenant has to provide 25 per cent of the purchase-money, and on his doing that the Commission will advance to him 75 per cent; is that so?
- 10 per centr.; as unst sor That is so. Allow me to make one observation before you examine me further upon that. The business transacted in that department of the Commission has not come so much under my observation as the business in other departments of the Commission. The chief agent for the land sales hadelat (0.1.)

54 9th March 1882.7

Mr. Godley.

[Continued.

very much personally with the Commissioners, for this reason, text it involves the sanction of advances of money, and the consequence is that the business has not come so much through me as: It has in the other departments. He has adeal more directly with the Commissioners themselves; but I can state generally that there has been comparatively very little advantage taken of that generally that there has been comparatively very little advantage taken of that business in that department as in other department, for he reason I have stated,

- 558. You have had great experience in connexion with the Church Commission in the matter of sales to tenants?
- Yes; I can answer general questions upon the subject.

 559. I was proceeding to ask you about the terms on which advances are
 made; what is the rate of interest which the 75 per cent. advanced to the
- tenant bears; it is 34 per cent, is it not?

 The whole rate would be 5 per cent, but 33 per cent, is the interest upon the money advanced, and 14 per cent, is for sinking fund.
 - 560. That sinking fund is supposed to pay it off in 35 years? Yes.
- 561. What would be the number of years which would be required if the instalments were at the rate of 4 per cent, instead of 5 per cent.?
- That is to say, if the sinking fund was a per cent. instead of 14 per cent.; in that case it would be prolonged enormously, but I could not say off-hand how much. Of course the period of the termination of a terminable annuly depends altogether upon the amount that is set apart for the sinking fund.
- 562. Would it not be 60 years or 62 years?
 - I could not say at the moment what 4 per cent, would give.

 56 3. What is the inducement at present to a tenant to purchase his holding:
- but is the present advantage that it would be to him to become a proclaser in place of remaining a tenant?

 My own opinion is that there is little or none. I think he is placed in such
- My over opinion is that there is little or none. I think he is placed in such a favourable position by the operation of this Act that there is very little temptation, if any, for him to change his position into that of a propriator, of the property of the control of the property of the control of the property of the trans of the control of the property of the trans of the control of the property of the trans of the control of the property of the trans of the control of the property of the trans of the control of the property of the translation of the property of the translation of the property of the translation of the property of
- 564. Would be have any advantage whatever by becoming a purchaser in a present reduction of his annual payment as compared with his rent, or would it be the reverse?
- The present terms are that he must pay one-fourth down and three-fourths may remain outstanding. I must make a calculation before I can tell whether there would be a reduction in his annual payment.
- 565. If I put a case to you by way of illustration it will be more easy to follow it in that way; supporting a men has a holling of 50.1 a, ever, that is the present rental or annoal value, there is to be a purchase of it, and the tenant and the landlord agree to buy and sell it at 20 years' purchase; that would come to 1,000.1?
 Yes.
 - 566. The tenant must provide 250 L of that himself? Yes.
 - 567. Either by horrowing or using his own money?

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- Yes.

 568. We will suppose be is charged 4 per cent. for that, that would be 10 L.

 a year, and then he has to pay the Government 5 per cent. on 750 L, that is
- 37 I. 10 s. ? Yes. 56q. £. 37. 10s. and 10 I. will make 47 I. 10 s. ?
 - Yes. 570. What

9th March 1882.] Mr. Gonter. Continued. 570. What do you put down for rates and toxes that will fall upon him as

owner, that would not have fallen upon him as tenant? He will have to pay balf the poor rate. 71. And anything else; the county cess?

I do not know. Your Lordship is probably awars that in the case of lettings made since 1870 the tenant and the landlord divide the conoty cess.

572. Then he would have to bear balf of that?

Yes, if his letting was made since 1870. 78. And in the case of lettings made before 1870?

573. And it use case of the county cess.

74. We will take it ot half?

There would be half the county cess and half the poor rate in addition to his 47 l. 10 s. 575. On a holding of 50 l. can you give me any general estimate of the sum

that would be necessary to provide for the half of the poor rate and the county

It would be very difficult to do that, because the amounts of the poor rate and county cess vary so much all over Ireland.

576. I only ask for a rough estimate?

I should soy that on an average the poor rate all over Ireland is now 1 s: 6 d. in the pound; it was said to be 1 s. in the pound at the time of the passing of the Irish Church Act. 577. The tenant's half of that on a holding of 50 L would be 1 L 17 s. 6 d.?

Yes; he would have to pay 9 d. in the pound on 50 L, and the county cess is a heavier charge in most places than the poor rate. I should say that the county cass would probably he 3 s. in the pound; the half of that would come to 3 L 15 s.

578. Altogether there would not be less than 5 L falling on him for the balf that he would have to pay of the county cess and the poor mto : That is so. In fact, I think he would he in a worse position as regards his

aonual payment. 570. The 47 l. 10 s. plus the 5 l. would make 52 l. 10 s., so that he would come out of the transaction having to pay 52 l. 10 s. a year in place of having

to pay 50 /.? 580. There would not be much temptation to him in that?

Certainly as a financial operation he would lose by it. On the other hand he would have some advantages. If there were minerals discovered, or if some flourishing manufacture sprung up in the neighbourhood, which would enhance the value of the property, he would have the advantage of that.

581. He would have the unearned increment? Yes.

582. Lord Brahowrue. Could be very well horrow his 250 l. at 4 per cent. in Ireland?

I cannot say. Probably if he borrowed it at all, it would he on mortgage. 583. Chairman.] He might have the 250 L of his own?

Yes. One way in which this operation could be carried out, and I think it is very likely that it may be carried out in that way, is that the landlord would allow the 250 l. to remain on mortgage.

584. It would not be a first charge? No. That applies to the case of a landlord selling direct to the tenant, and not to that of the court buying from the landlord and selling to the tenant; those two cases are quite distinct. 585. If (0.1.)0 4

9th March 1882.] 585. If the arrangement was altered, and if the annual payment was at the

rate of 4 per cent. spread over a period of 60 years (1 think that is about the period which would be required for 4 per cent.), then the position of the tenant would be this: he would pay 40 L a year on 1,000 L, and he would pay the sum we have already put down for rates and taxes?

486. Therefore his annual payment would be 45 L a year in place of 50 L? Yes.

587. Do you think that that would induce tenants to buy?

I do not myself think that the tenants will buy in any numbers so long as they have got to pay any money down. That is only my own private opinion : I commit nobody else by expressing it.

588. Do you say so long as they have to pay anything down?

I mean that the operation of the Act will be very much restricted so long as any ready-money payment is required from a tenant; of course there will be some cases in which they will pay.

589. Earl of Pembroke and Montgomery.] I suppose now that the Act of 1881 has become law, it is not likely that there will be any bidders for agricultural land in any great degree in Ireland, except the tenants? I should think not; in fact, it is ascertained already that there are hardly

any dealings in the Landed Estates Court.

590. So that if the tenants refuse to buy, land would practically be unsaleable? So far as I know people are not buying now, and certainly I do not see that there is much temptation to buy.

501. Chairman.] In the few cases which have occurred, can you tell me what was done by the Commissioners as regards the price. Supposing the tenant and the landlord together agree to a sale, and go to the Commission for an advance of 75 per cent., do the Commissioners inquire into whether the price has been, in their opinion, a proper one, or do they leave that entirely to the parties to

settle? The Commissioners are interested in that question in this way : they must be satisfied as to the security; they must be satisfied that they are not advancing too much money upon the property which will be mortgaged to them; that is

the consideration which is principally before them in such a case. 592. Do you know whether they have objected in any case to the price which was agreed upon between the tenant and the landlord? I think they have.

593. On the ground that it was too high?

of whom?

Rule 119.

Yes, on the ground that the security would not be sufficient. I wish to guard myself especially against its being supposed that I can give these facts with accuracy. As I have already stated to your Lordships, the matter has not come before me specially, 504. It would be in the department of Mr. O'Brien?

Yes.

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505. You do not know whether the Commissioners have refused any advance upon that ground, or not?

My impression is that they have, but I make that statement with reserve. 596. Do you know what they do about the title of the landlord; do they

investigate it? Yes; the landlord's title is investigated. 597. In what way is it investigated; is it at the expense of the landlord, or

I think that is provided for in the rules; all the expenses are stated in 508. That

611. Barl

9th March 1882.7 Mr. Gopley.

508. That does not touch the question of investigation of title? I do not see that it is mentioned.

599. Viscount Hutchinson.] I suppose that would be included in what is covered by Rule 122: "The subsequent expenses, that is to say, the actual outlay by the Commission in completing the sale"? The 125th Rule provides for what the landlord is to do with respect to his

SELECT COMMITTEE ON LAND LAW (IRELAND).

title. The Commission "may require the landlord to furnish his abstract of title, which shall be investigated in the usual way on behalf of the Commission.

600. Chairman.] Generally a purchaser pays the expense of iovestigating the seller's title; but I do not see any provision about it in these rules i I cannot be quite sure whether tint expense is included in the 2 l. per cent., or not.

601. I do not find anything in the rules you have referred to about the

expenses under section 24?
They are not expressly alloded to, but it says in Rule 119: "Provided the landlord undertake to pay for the expenses of such negotiation and com-

pletion." 602. And then it goes on, "by per-centage on the purchase money, according to the scale hereinafter mentioned." My question is, does the $10\ s$ in the $100\ L$

cover every expense up to the signing of the contract, and does the 2 l. per cent. cover all the subsequent expenses? My impression is that that is the case, but I cannot speak with certainty.

603. Then supposing a tenant agrees with his landlord to buy a holding, and apply to the Commission for an advance of 75 per cent., does the Commission

send down a surveyor or valuator ? Yes, they always send down to have the holding valued.

604. And he makes a report?

He makes a report, and upon that report the Commissioners decide whether they will advance the money or not, or whether the advance would be too great upon the value of the security.

605. In the cases in which the advance was refused, do you know whether it was in consequence of the report of the surveyor or valuator? I should think probably it was. I know that in every case a valuator has gone down for the express purpose of reporting to the Commissioners.

506. Do you know the number of years' purchase that was agreed upon in

that case between the landlord and the tenant? No, I do not.

607. I understand you to say that you do not see much prospect of the purchase clauses in their present state being availed of by the tenants purchasing their boldings? No; myself I do not expect it, unless the terms upon which the tenant may purchase are improved, so as to put him in at least as good a position with

respect to his annual payments as he is in now. 608. That is your own opinion?

(0.1.)

609. Has a way occurred to you in which he could be put in at least as good a position with regard to his annual payment as he is now?

Certainly; simply by advancing the whole of the purchase money; by not requiring any part of it to be paid down, and by spreading the repayment of that purchase money over so many years as to make his future payment as proprietor certainly not more than he pays at present as a tenant.

610. I suppose your observation applies both to the proceedings under the 24th clause and to those under the 26th? Certainly. H

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9th March 1882.] Mr. GODLEY. [Continued.

611. Earl of Pembroke and Montgomery.] Could that be done without any

loss to the State?

I think it could. It would be necessary to keep the State out of its money

I think it could. It would be necessary to keep the State out of its money for a long time, because it would be necessary to make the terminable annuity run over a considerable period of years.

612. Viscount Hutchinson, From your experience of the Irish Church Commission and the sales under it, could you give me any idea what the per-centage of default was in cases where tenants who had bought their globe lands were paying the rentchurge by instalments?
1 could not state off-hand how far these new proprietors are in arrear with

I could not state off-hand how far these new proprietors are in arrear with their installments. I could only tell you generally. 613. We will suppose that there are one hundred purchasers, how many out

613. We will suppose that there are one hundred purchasers, how many out of each hundred do you suppose would be in arrear; could you strike any average in that way?

average in that way?

I could not give you any figures, but I can state generally that they have paid well, I may say astonishingly well in these last years.

614. In fact, they ordinarily pay their instalments?

58

Yes, ocrtainly; so far that fact is rather encouraging. The payments of iustalments have been made very much more punctually than payments of rent.

615. So that if any large scheme of this sort was adopted in such a way as you have suggested, and the tenants in Ireland availed themselves of it, the practical risk of arrears which the Land Commission, or the Government through them, would run, would be very small?

The experience is so limited that it is difficult to base any certain conclusion upon it. The number of purchasing tenants; peasant proprietors, you may call them, under the Church Act, is only about 6,000 or 7,000; you could bardly take that as a basis for calculating what would be the case if there were 400,000 or 50,000 who had to pay.

616. Chairman.] The number under the Cburch Act is 8,432, according to your evideoes before the Committee of the House of Commons? I have no doubt that is correct.

617. Earl of Pembroke and Montgomery.] You are afraid, in fact, that there might be a "no instalment" agitation set on foot?

But it would be a very different thing to fight with the Government of the country from fighting with individual landlords. I think the instalments could be recovered much more easily than a landlord could recover his rent; there would be no intimidation.

618. Viscount Hatchinson.] At present, under the Act of 1881, I understand that the advance is three-fourths of the purchase money ? Yes.

619. What is it upon the sales under the Landed Estates Court? The advance is three-fourths now in every case. Under the Bright clauses the advance is only two-thirds.

620. But it is still possible to make sales under those clauses through the Landed Estates Court? Yes: hn now the Land Commission can advance money when sales take

Yes; but now the Land Commission can advance money when sales take place in the Landed Estates Court. 621. And they would have the power to advance three-fourths?

Ves, and consequently nobody would now proceed to sell, only getting twothirds when he can get three-fourths.

622. Lord Tyrene.] Are you aware, with respect to the sales which have taken place, what number of years' purchase of the rentals existing before the passing of the Act they were made upon?.
No. I am not. 9th March 1882.] Mr. Godley.

623. You mentioned Lord Lansdowne as having asked the Commissioners to settle hetween him and the tenants as to sales?
Yes.

Yes.

624. I should like to know what the usual form of application would be for the landlord to do that?

I have it here; it is one of the forms at the end of the rules.

625. Were the church lauds, with regard to which you had the management of sale seld at the full calling rather?

of sale, sold at the full selling value?
We got as much as we could for them.
626. Do voi know what proportion the rents of those lands bore to Griffiths'

626. Do you know what proportion the rents of those lands hore to Griffiths' valuation?

It depends upon what part of Ireland they were situated in. In the north the difference between the valuation and the reat was comparatively small; in the south it was large.

627. What average rate of purchase did the Church Commissioners get? I think we got about 22 and some fraction years' purchase of the rent.

628. Chairman.] Was not it from 23 to 231 years' purchase, according to your former evidence?

It is stated in the Church Commissioners' Report; but if I said so in my evidence I am sure that that was correct, for I gave that evidence after having looked at all the figures.

629. Lord Tyrose.] You stated in that evidence which you gave before the Committee of the House of Commons, that there was an unwillingness at first to purchase?

630. As there is at present?

Yes.
631. But in that case the tenants got over it?

Yes; I think the cases were quite different. Then they were reluctant to purchase from ignorance; they only wanted the thing explained to them, and as soon as they understood what they were about and what was required, they were very auxious to purchase and to change their position from being tenants to being owners, but I think the case is different now.

632. Earl of Pembroke and Montgomery.] Is it not the fact that they know very well that if they had not purchased, the land would have been sold over their heads to the highest bidder? Yes: and that was a reson for purchasing. They did not like the idea of a

Yes; and that was a reason for purchasing. They did not like the idea of a new landlord coming in over them.

633. Lord Tyrose.] It was stared just now that 23 years purchase was obtained upon the sales under the Church Act; what number of years purchase of the old rents do you suppose, from your knowledge of Ireland, land would fetch at the present moment?
It is found really to be practically unsaleable, and therefore it would be

It is found resuly to be practically unanisatine, and interesors it would be impossible to fix any number of years' purchase.

634. In that evidence you stated that you considered the lands that were sold.

osa, in that evidence you stated that you considered the failed that water water and and Yes.
Yes.

635. And fully as high as those of the landlords near them ? Certainly.

636. By saying "fairly rented," did you mean lowly rented when you gave that evidence; I refer to your evidence given in 1877?

I suppose I meant that the land was let at the average rate of letting in the country.

637. Yes, and did not mean what is called "fairly" now, which is lowly rented?

(0.1.) H 2 No,

No. I had no idea of that sort in my mind at that time. I am sure that I

meant it was the ordinary market value of the land. 648. At that time you considered that 23 years' purchase would be a fair

average price for land fairly rented? Yes; but I think we got a higher price than they got in the Landed Estates Court, because the advantages were so great. In the first place, there was only the necessity of paying one-fourth down, and that was a great inducement to people to huy. I think the price we got was higher than the price that was

630. I think I heard you say to my noble friend near me that that nurchose money, or the instalments of it, had been well paid since?

obtained in the Landed Estates Court for that reason amonest others. I cannot say that it has been absolutely well paid, but it has been relatively well paid. Those instalments have been paid very much more punctually than rents have been paid throughout Ireland. But I would also say that the peasant proprietors are complaining very much of having to pay those instalments. They are paying; but still they complain.

640. Do you consider that they are complaining because of the reduction made by the Courts in other rents?

They are complaining because they see their neighbours all getting their rents reduced, whilst they are hound to a payment which was put upon them before this new state of things arose.

641. And that payment was actually in excess of their old rent, I understand, taking in the county cess and the poor rates?

The noble and learned Lord in the Chair made a calculation just now which went to show that. But it would to a certain extent depend upon the rate at which they could horrow the quarter of the purchase moncy, and I suspect that in most cases they did not get their money at four per cent. Some often horrowed it, I believe, at a very high rate,

642. Chairman. If so, their annual payment would be more still?

I think that is one reason why some of them have failed, that is to say they horrowed the quarter at a very high rate of interest, and that crippled them.

643. Lord Tyrone.] But even according to the Chairman's calculation it would be higher than the original rent? Yes.

644. For the reason you have stated, you consider that probably it was a great deal higher than the original rent? I would not say "a great deal higher," but higher. If they horrowed the quarter of the purchase money their annual liability would be, I should think, larger now than it was hefore.

645. Taking the rents as fair average rents in Ireland, and having regard to what you have just stated, that the instalments are higher than the old repts? No; the instalments would not be higher than the old rents, but the instalments, plus the interest on the money borrowed, would be higher, adding in also

the county cess and the poor rate. 646. The absolute sum of money which the tensnts have now to pay would be higher than the old rents; that is to say, the instalments and the interest on the money borrowed?

I should think it would be higher. 647. Taking that to be so, would not that be a proof that on the average the

land of Ireland was not overlet? I do not see how it proves it,

648. Taking the tenants who purchased as average tenants (as you stated just now), seeing that they are now paying more than their original rent, and that they have been able to pay it, even in the had years, as you have stated, would not that be a proof, if they are average cases, that the land of Ireland is not, as a rule, overlet,

Din addren 1004.j		. Gobles.	Contracts
No, I do not th	ink it would. It	would prove that those	men are paying

under, perhaps, very great pressure, and in very great straits; but it would no prove that they are oot paying too much.

640. They are paying more than the original rent, according to your state-

649. They are paying more than the original rent, according to your statement? Yes; but that may be a great deal too much. I do not think that the fact of

Yes; but that may he a great deal too mucb. I do not think that the fact of a man paying his rent proves that the rent was a fair ooe, because he may be working night and day. He may be paying his debts honestly; but still the rent may he too high.

650. If he is paying a good deal more than his rest, as you say he has heen doing, does not that prove that his rent was a fair one? It does not prove that it was a fair rent; it proves only that he was able to

If does not prove that it was a fair rent; it proves only that he was able to
pay it.

651. Lord Brabourne.] If he pays it for a great number of years consecutively, is not that a good test of its being a fair rent?

tively, is not that a good test of its being a fair rent?

It is a test of his shility to pay it. I do not think it is a test of its fairness.

It is a test of his shillity to pay it. I do not think it is a test of its fairness.

652. Lord Tyrone.] My question was with regard to the fact of the pur-

chasers under the Church Act having paid more than their original reuts; taking those to have been the average rent, if one of those purchasers has been able to pay more than the original rent, surely that is more or less a proof that the

original rent cannot have been excessive?
It only proves that he was not absolutely unable to pay it; I do not think it proves that it was a fair rent.

653. Earl of Pembroke and Montgomery.] If you could tell us the exact percentage of tenants who have failed in these bad years to pay their instalments, that would be very interesting? I could not tell you now, but the information could be furnished to you from

the office.

654. Duke of Norfolk.] The fact which you have stated shows that the
Gorernment is able to draw, and is in fact drawing, a higher annual payment

Gyar Duke of 1000ks.] He late white you have stated shows into the Government is able to draw, and is in fast drawing, a higher annual payment from the tenants than the laudlords can draw?

Yes.

655. Have any cases of actual hardship emong the purchasers under the Church Act here hrought forward? Yes, they are complaining most bitterly of it; but still as a class they are

paying fairly well.

656. Lord Tyroze.] In your former evidence, which I again refer to, you

o₅₀. Lord 1970me.] in your former evidence, which I again refer to, you stated that one-third of the tenants purchased for cash? Yes.

657. I infer from that that the cash was in their own hands; that it was not borrowed money? That we had no mesos of knowing. We insisted upon cash payments. If

That we had no meass of knowing. We insisted upon cash payments. If the purchase money was below 50 L, we would not take anything but cash under the Caurch Commission.

658. Chairman.] As regards present payments by the Church tenants, I suppose they are now getting far on in their payments, and coming towards the end of them?

the end of them?

No; in the case of those who took the full advantage of the Act, the terminable annuity extended over 32 years; so that as regards erec those who purchased at the commencement of the Church Commission, only a small

portion of the annuity has run off.

659. The payments have been going fur about 10 years, have they not?

1 thiok we did not begin to sell much under the Church Commission until about the year 1872 or 1873. The sales commenced about that time, and

extended up to 1878.
(0.1.)

H 3 660. You

9th March 1882.] Mr. GOILEY. [Continued.

66o. You have this hold upon them now, that you have a guarantee for their payments, because they would forfeit pretty nearly one-third of the whole sum if they did not cootinue to make them?

Yes; n good deal of the purchase money has come hack in the shape of

Yes; n good deal of the purchase money has come back in the shape of instalments.

661. Of course that is a security?

Every year that they pay adds to the security, of course.

662. The danger of their failing to pay is greater, of course, in the first $10\ y{\rm cars}$ than afterwards :

The longer they pay, the more they feel themselves disposed to go on paying. 663. Viscount Hutchinson.] Had they a right to alienate or sell their lands

under the Church Act, after a certain time?
Yes, subject to the mortgage. There was no condition made. A man might sell his land which he had purchased from the Church Commission, subject to

the charge which the Commission had upon it.

664. He might do so the day after his purchase was completed?

Y-s, directly after he had made the purchase.

665. Leaf Tyrone.] Let me read to you an answer which you gave to the Charman of the Committee of the House of Commons: "It presume in many cases the tenants must have money of their own, from the number of each purchases which have taken place." A man who has not money of his own of the history of their own, from the number of each purchase which has he had been as the first of the state of the history of the histo

Yes; those tenants purchased for cash. The majority of them were persons whose payments were less than 50 L

666. But at that time you were of opinion that they had money of their own? I suppose I was of opinion that those men who purchased for cash had money

of their own, for I see that I said so.

667. Would not that bear out my former question; if one-third of the tenants
out on such a number as that bad the money to purchase for cash (which you
stated they did), would not that he a proof that the rests of Ireland, as a rule,

were not excessive; because they had not only paid their rents, but had saved so much money as enabled them to purchase for each, according to your former eridence?

I do not think it would prove that. I think the fact that a man has been able, by very hard work, to put by a little money, is not a proof that his rent

ame, ny very mura work, to put ny a nuse money, is not a proof that his rent was not excessive.

668. Not although he had paid his rent at the same time?

No.

669. If a man was able to pay his rent and put by sufficient money to buy his holding, you think he would not be living and thriving?

No, I should think be might be living on bread and water; and, bosides, to not think you sufficiently consider that these me who bought gaves any small sums. A great many of the holdings were town-losts, and in those cases the mon did not live out of the holding at all. We so led a great many single houses, so most other than the sum of the contract of the contract of the soling area of the sum of the su

670. A third of the tenants who purchased altogether?

For instance, in Dublin we sold a great number of houses; many of those who bought them were put down as tenants purchasing for cash.

671. In

towns.

9th March 1882.] Mr. Gonley. [Continued.

671. In answer to Question 1497 in your evidence before the Committee of the House of Commons, you stated that the industry of the tenants who purchased was very much stimulated? Yes.

672. Would you not consider that it would stimulate the industry of the tenants generally throughout Ireland to become peasant proprietors? I should think it would.
673. And you think it would be an advantage to make the purchase clauses.

more workable?

Very great. I am strongly in favour of it.

674. Both for the landlords and for the tenants? Yes, and for the general good of the country.

675. In your former evidence, in answer to Question 1505, you said that land which was in hand sold on the average at seven years' purchase higher than the land under tenants?

Yes, that is absolutely correct.

676. And when you were asked what created the difference, you said that it was the tenant-right?

Yes.
677. Would you consider that if the tenant-right made a difference of seven

years' purchase, if tensut-right were to be conceded suddenly where it did not exist before, it would reduce the selling value of the land by that amount? I cannot recollect what I meant exactly by tenant-right there. I see that I said that "some unoccupied land sold for a very much higher price than

tenanted land," and that that was accounted for by the tenant-right.

678. Then what answer do you give to my last question?

I could not bind myself to an answer upon that point. I have not considered the matter for years; in fact, I could out answer it. 670. Lord Tymee, I want to draw your attention to two or three questions and answers to your evidence of 1877; the first one is Question 1512; "And comparing these two prices, you were able to say that the measal lands, sold in

hand, fetched an average of seven years' purchase beyond that of land in occupation"; your answer to that was, "At least that"? Yes.

680, Then Question 1513 is, "Will you state what, in your opinion, is the

680. Then Questioo 1513 is, "Will you state what, in your opinion, is the cause of the increased price of mensal land, as compared with the tenanted hand"; and your answer was, "The reason is simply that it is untenanted"? Yes.

681. Question 1514 is this: "Then the difference between the two prices represents practically the average value of tenant right"; and your answer was, "Precisely"?

Perbags I ought to have said, that oo doubt that did in my opinion represent the value. I merely repeat what I said then, that I was under that impression, and I dareasy it was a correct one; in fact, that was proved to be the difference. There is no doubt that the fact that untenanted land fetched seren years' purchase more than tenanted land, showed that that was, in the estimator of the public.

the difference between the two.

682. That being your opinion then, is your opinion now? I should say that it was so. We have recently sold untenanted Church land at Tunn in Ireland under the Land Commission, in our capacity as administrators of the Church fund, and we sold it, I think, at 40 years' purchase of the sammal value. I will not be positive as to that; it may have been 45 or 38 years' purchase, but the it it was about 40 years' purchase is my present recollection.

683. Chairman. Were those town parks?

No, pieces of glebe land; just such land as Lord Waterford in referring to in bis question.

(0.1)

H 4

684. Lord

684. Lord Tyrone.] That was with no tenant-right upon it?

Nothing on it of any sort; it was unoccupied land. 685. Therefore that class of land is still saleable?

Yes.

686. But land in the occupation of teaants is not saleable?

So it would appear from there being no demand for it.

687. Lord Carysfort.] Do I understand you to say 40 years' value or 40 years' rent?

It was not rented land. I think we probably had it valued, hut I am not quite sure about that; you may take my answer to be 40 years' purchase of what the rent would have been if the land had been rented.

688. Not the poor law valuation? No.

689. Lord Throat.] There is an answer in your previous evidence with regard to that, as to how to find out the fair rent; you may remember that answer, perhaps?

No, I do not.

690. It was merely what you mentioned to the noble Lord, namely, that you had it valued, and ascertained what a fair rent would be? Just so.

691. You mentioned in that evidence also what were called the "Bright Clauses," under the Act of 1870; you said that if you made the judge the seller to the tenant under those clauses, and he agreed with the lundlord as

to the price, it would be an advantage?

I am not sure what the context was.

602. You will find it in reply to Question 1527?

I think is the meaning of the Court negociating.

What I had in my mind then, I presume, was that if the judge's only function was to sell the land, he would he in a different position from having to consider the landlord's interest, which I believe the judge of the Rocumbered Estates Court was chilged to consider. He could not do as he pleased, as the Church Commissioners' do.

693. But you proposed there that the landlord and the judge should come to an agreement before it was offered to the tenant?

I went on to say that that mode of acting would relieve "the tenant of the onus of fixing the price of his own and. An illurest tenant in the west of Ireland does not know whether it is worth 2 or 23 years purchase." I presume what I had in my mind was, that an offer should be made at a fixed price to the tenant.

604. I want to know whether you think any suggestion of the same sort would improve the sales under the present Act; that is, that the Court should negociate with the landlord and then offer the land to the tenant, as you suggested there; do you think that that would be an improvement?

suggested there; do you think that that would be an improvement?
I should suppose that now, under a section of the Land Law Act, when the Commissioners undertook to negociate, they would ask the landlord what price he would take, and they would ask the tenant what price he would give; that

695. I merely wanted to know whether you thought any improvement could be made in the action of the present Courts on the lines of your proposition in answer to Question 1527?

Being pretty well convinced that the tenants will not, in any great numbers, buy, unless the terms are made very much more favourable; I have never turned my attention much to amending the thing. Unless the whole of fit is changed, I do not myself think that it will work. I have not looked into those clauses with a view of suggesting amendment, because I think they should be sltogether changed. That is my tidea.

696. Chairman,

6th March 1882.] Mr. Godler. [Continued.
696. Chairman.] That is what we understood you to say: and if anything were done on the lines, which, I do not say you recommended, but which you indicated as possible, there really would be on bargain required with the

tenants, would there? None whatever.

(0.1.)

697. If an arrangement were made to take them at their present rent, or at any fixed rent, in order to make the thing automatic and self-working, so that after a number of years they would be owners, becoming so by degrees, there would be no opening for negociation, but the thing would do itself?

The question would be, how much the landlord was to get. 608. That is another matter?

Yes.

699. That is quite a different thing: So far as the transaction with the tenant is concerned, it might be something

So are as the transaction with the redeemable in Ireland by a terminable annuity. It was so arranged that the terminable annuity is almost precisely the same as the old tithe rentcharge. The payer, hy making application, turned himself from being a payer for ever into heing a payer for only \$2 years.

700. Lord Tyroue.] In answer to Question 1687, you mentioned that the Commissioners raised the rents where the lenses fell in under the Church Act? I see that was my answer.

701. From your knowledge of the working of this Act, do you consider those rises would be knocked off by the Suh-Commissioners?

rises would be knocked on by the Sun-Commissioners?

I cannot tell you. If they were unfair rises, I think they would be; if they were fair, I think the Suh-Commissions would leave them.

712. Would the Commissioners he likely to make unfair rises?
No, I think not. I should say that we raised the rents exactly to the point at which a judicial rent would now stand.

703. Then you do not consider that those rents would be reduced below what they were at the time they were raised?
No. I thin probably not.

704. In reply to Question 1765, you said that the Church Commissioners sent down a valuator so as to judge the value, and that it would be impossible for the office in Dublia to judge the value?
Yes

705. You also stated in answer to a question a little after that, that a valuator was an extremely difficult man to find? Yes.

706. Do you consider that the gentlemen who have been appointed as Sub-Commissioners are of the same calibre as the valuators that you sent down? Do you mean with regard to their capacity for valuing land?

707. Yes, and only with regard to that?
I am afraid I could not answer that question; I have no means of judging of

their capacity.

708. I think you have been asked to hand in all the forms?
Yes.

709. Have you handed in every form that has been sent out?
I think I have. I intended to bring every form with me, and I believe I have

done so. If I have left out any it has been merely by inadvertence. I have also brought a number of forms connected with the binancial business of the Commission. I do not know whether the Committee would wish me to hand in thuse also. They are forms of accounts and such things.

(The same are handed in.)

710. Lord

9th March 1882.]

- 710. Lord Tyrone.] You had better hand in all forms and rules which have been issued by the Chief Commissioners since their first appointment? have done so. Those forms have all been presented to Parliament.
- 711. Have you handed in the instructions issued by the Chief Commissioners from time to time to the Assistant Commissioners? I have brought all those with me to-day.
- 712. Earl of Pembroke and Montgomery.] The Commission issued, I believe, a pamphlet describing the tenure clauses of the Bill, and also another one teaching farmers how to buy their own farms, but I am not aware whether they have done anything to advocate the Emigration Clauses of the Bill; have they done anything in regard to that matter?
- They have not, nor have they been able to do anything, though they are very anxious to do so. They find that uo application which comes within the provisions of the Act has yet been made to them, either by a public body or a competent person.
- 713. I suppose it would hardly have been good policy on their part to have attempted to popularise those clauses in any way?
- They did not see their way to it at all; they could not take the initiative. It was necessary for application to be made to them.
 - 14. So far, they have remained entirely a dead letter? Completely; a great many applications from private people have been made
- to know whether we could assist them, but we have always been obliged to reply that there are no powers under the Act for assisting private persons-715. In your opinion, are those clauses likely to remain a dead letter in the
- I should fear, if no change he made, that they will; I do not see much probability of their working.
- 716. Can you suggest any way in which they might be amended?
- The only thing which has occurred to me in thinking the thing over in the last day or two is with regard to enabling boards of guardians to apply under the Act. As the powers of the boards of guardians are now, I do not think they can apply for assistance from the Commissioners under the Emigration Clauses; I think boards of guardians can only bind themselves for the present, think they can bind their successors. I am not very familiar with the point, but I understand that one reason against boards of guardians thus acting is that they cannot bind their successors as to what rates they will put upon the union in order to give security to the Commissioners. I think it would be very advisable that there should be such an alteration as would enable the hoards of guardians to come in as a public body.
- 717. There is one question which Lord Dunraven, before he left, asked me to put to you. It relates to Question 375 of the evidence you gave the other day. In your answer to that question I notice these words: "The number of applica-sion could become cognisant of the cases in which the landlord and tenant have not concurred?
- They can only entertain an application which is signed by both landlord and tenant. There must be concurrence in that way. 718. It is put here as if it were possible that they might become cognisant of cases in which the landlord had applied, or in which the tenant had applied, and
- in which they had not concurred, and in which both parties had not applied; is not that the way io which it reads? In such a case as that no advance could be made. It is necessary for the application to be made in a certain form which is provided by the Commissioners, and that form gives a place for the signatures of both landlord and tenant, and without the receipt of such a form the Commissioners cannot make

719. Then

an advance under the Act.

.....

ath March 1882. Mr. Godder. [Continued.

7.19. Then the words "in which the landlerd and tenant concurred." are practically meaningless there. This is the way in which the answer reads:

"The number of applications for advances to pay of arrears under the 59th section in which the landlord and tenant concurred has been 534"?

Probably if I were correcting that evidence. I should strike that out is added in the control of the cont

Probably if I were correcting that evidence. I should strike that out as uisleading. It would rather imply that there were applications in which they did, and in which they did not, concur.

7:20. I wanted to know whether any applications had been made by either party in which the other had not concurred?

pairs in a since the other has not concurred. It would be incorrect to say that no application had been made, because the tenants very often write up asking for advances, and we are obliged to answer them that no advance can be made except on a joint application of landlord and tenant.

721. Duke of Nogrith! How far do the Sub-Commissioners, in different parts act upon the same grounds in deedling the cases that come before them? Are you able to say, from any information that comes before your office, whether their practice is the same in considering the proximity of property to towns and things of that sort, or may it not happen that one Sub-Commissioner would take various things into consideration that another one would

not?
That is possible; they have the Act to wide them.

722. They have no guide but the Act, have they?

They have no guide but the Act.

723. Have they no common understanding, or anything of that kind :

None that I know of. 724. We are informed that the landlord has no knowledge given him of the

improvements for which the toward intends to claim a diminution of rent.
What information does he receive before the case actually comes on, or to what
extent is he absolutely in the dark?
He is absolutely in the dark as to what the tenant wants, except that he

He is absolutely in the dark as to what the tenant wants, except that he knows that the tenant claims a reduction of rent.

725, The fact of the case having been brought into court, obviously indicates

The originating notice states that fact. I think the way the originating

notice runs shows that it is a reduction of rent that the man claims.

7:50. Obviously it would show that, because it could mean nothing else: but beyond that he is absolutely in the dark, is he not?

yond that he is absolutely in the dark, is he not? Yes, he is in the dark as to the grounds on which it is claimed.

The Witness is directed to withdraw.

NOTE to the Evidence of Denis Godley, Esq., c.s.

24, Upper Merrion-street, Dublin, My Lord, 1882. S any examination before the Committee appointed to inquire into the administratic

It may examination before the Committee agenized to inquire has the administration of the Land Lives Act, of which your Lordship is Chairman, I was acked whether the Land Commissioners accepted a judicial agreement for a full rest with the signature only of the agent of a landford attached to it, and without acceptainty whether each agent of the grant of a landford attached to it, and without ascertainty whether each agent of the Committee committee control and the committee of the Committee control and on the Act of the Committee Committee

I have now to state that though a judicial agreement, signed by an agent, is accepted for ledgment in this office, such agreement will not be filled until the landlared has bud apportunity of objecting.

A list of the agreements which it is proposed to file will be sent to the address of every landled; in the list who has not himself signed agreements, so as to enable him to make

an objective if he wither to do so. No certificates of the filing of agreements have as yet been issued.

I am, &c.

To the Right Honourable (signed) Lexis Godlev.

To the Right Heatership (signed) Desit Godley.
the Karl Cairns.

(0.1.) I 2

68

9th March 1882.

MR. HUGH STUART MOORE, is called in; and Examined, as follows:

727. Viscount Hutchinson.] You are a Solicitor practising in Dublin, I believe?
1 am.

728. Your practice has enabled you to judge largely of the operation of the Land Act, has it not?
Yes.

729. In fact, you have at this moment cases peoding in the Court which have not yet been decided?

I have a large number of cases; some have been decided and some have not been decided.

teen accused.

730. Perhaps, as you are acquainted with the form of procedure, you would describe the initiatory steps which take place in actions raised under the Land

Act:

In proceeding to fix a fair rent, whether initiated by the landlord or the teosats, the first step in Court is the originating notice; pleadings, which form the besis of proceedings in other courts, are abolished altogether, or rather are not required.

731. What do you find upon the originating notice? Simply the claim of the tenant to have a fair rest fixed; it also states the present rent, the Government valuation, and the acreage.

732. Nothing further?
Nothing further, except names and addresses of landlord and agent.

733. Do you look upon it in any way as a full statement of the landlord's or

tenant's claim?

Far from it; in an ordinary suit in the Court of Chancery or the Common

Law Courts, as your Lordships are aware, a full statement of the case appears
upon the pleadings; there being no pleadings in these cases, and nothing but a

notice, no statement of that kind appears.

734. In fact the party who is served with this notice is left entirely in the dark as to the case which he has to meet?

Entirely; that is particularly so with regard to improvements.

735. Is there any way of obtaining particulars?

There is a way, lot if does not appear upon the originating notice. I consider one of the great difficulties in the way of either the landled or he tensual is that there is no statement of the nature of the improvement that have been one of the class when the consideration of the nature of the improvement that have been over the class when seconded. Therefore the handled on a neither full haby part of the value of a farm is days, according to the tensual's view, boils own inkour, nor can het full ranged to the improvements that have been made whether the tount has been compensated by length of colymans in occupation or other-wise, because he does not horse the data at which the improvements were made whether the wise, because he does not horse the data at which the improvements were made.

736. Chairman.] You mean that that is the case, supposing he or his agent is not acquainted with the history of the holding?

Whether they are acquainted with it or not, they are not aware of the case that the tenant proposes to make.

737. Viscount Hutchinson.] As I understand, under the Rules of Court as published by the Commissioners, there is no rule necessitating any paper particulars as to improvements or anything else being furnished either by the

tenant or the landlord?

None of the rules of which I am aware provide for it. The practice is that you serve a preliminary notice on the tenant demanding particulars.

738. Chairman.]

738. Chairman.] Is there uot a rule of Court that enables either party to apply for particulars?

apply for particulars?

I think only in cases where the landlord seeks to purchase the holding at the fixed specified value of the tenancy.

7,20. Rule 98 is this: "Wherever a specified value for the senancy has been fixed, and the landford basing received noise of the tensard instruction to self-instruction of self-instruction of the control instruction to self-instruction of the control instruction of the control instruction of the control instruction of the Act extends as the senance to be paid for who tensarcy, lawfur greated to the providence of Section 8, 8th-section 6, of the Act, either party may make application to the Court to assortain the amount of the purchase-money under the tensard stellar beautiful to the control instruction of the control instruction of the Act extends and the tensard stellar beautiful to the control instruction of the court of the section of the court of the service of the landford studies, and if the tensard's notice before exceeding the section of the court for particulars of the case intended to be made, either as to increase of value by means of limportune of the court for particulars of the case intended to be made, either as to increase of value by means of limportune of the court of the cou

Yes; where the landlord claims to buy the tenaut's interest, the specified value baviog beeo fixed; that is the way I should read it.

740. You read Rule 99 as only applying to Rule 98 ?

I read it as referring to "such application."

741. Does not "such application" go hack to Rule 94: "An application to the Court to fix a fair rent may be made by notice in form," so-and-se? I should not so refer it; but that is a question perhaps purely of law, and I do not think the Commissioners so read it either, hecause they insist upon the

service of a preliminary notice, in the first instance demanding particulars, and then a notice of motion.

742. But the 99th Rule contemplates that a notice of motion will be served,

because, if necessary, parties "may apply to the Court for particulars of the case intended to be made"?
Yes; but if that were so, it seems to me it would dispense with the necessity for any preliminary notice, because the tenant would then be aware that he

must give the particulars.

7.33. But the Rule says that, "either party may demand from the other before the hearing of such application, and if necessary may apply to the Coort for particulars," so that the first thing is to ask the opposite party for the particulars:

ticulars," so that the first thing is to ask the opposite party for the particulars: if they are not given then he is to apply to the Court!

Yes. I am afraid in my first answer! I did not clearly courser my meaning; I meant to say that there was no rule compelling the tenant to furnish the particulars as part of his case. But whether there is a rule or not, there is the

practice that you can compel those particulars to be furnished by an application to the Court.

744. We understood from the last witness that that was his view of the

practice; that you might call upon the tenant to give the particulars, but that you had no means of compelling him to give them?

Without an order.

 $745.\ \mathrm{And}$ if he did not give you the particulars you must then go to the Court? Yes.

746. But this 99th Rule surely applies to the case of fixing a fair rent? I have never so read it.

747. I do not wish to give an opinion ahout it, but we understood from the last witness that in practice it was so read?

In practice they do make the orders when applied to, but not, as I understand it, by virtue of the 99th Rule.

748. Viscount

9th March 1889.1 Mr. MOORE. Continued.

70

stand has there not -

748. Viscount Hutchinson.] There has been a ruling in the case, I under-

Yes, there has been a ruling. I speak now from hearsay, hecause I myself

have not had a case decided on an application for particulars. 749. Chairman.] I put this question to the last witness: "How does that

work. Supposing that the laudlord wants to obtain from the tenant particulars of the improvements that he intends to rely on, he must apply to the Court in Dublin;" and his answer is, " He must apply to the Court in Dublin; hecause, although I do not think it is the custom, I have known one or two cases in which the landlord has required from the tenant a statement of the improvements in respect of which he claimed that the rent should be reduced. and I think the tenaut disregarded them, and was entitled to disregard them onless there was an order from the Court requiring him to furnish them "? Yes; that is so.

750. Supposing the Court makes this order upon the tenant, what does it do about the costs?

I am not personally aware of the practice, but judging from the decisions in every case it appears that the landlord ahides his own costs.

751. The Court has not, so far as you know, said, " The tenant when he was called upon ought to have given the particulars, and hecouse he has not

No. I should add, perhaps, that Mr. Commissioner Litton lately said that the intention or idea of the Commissioners was that in future such applications should only he granted in cases where the tenancy was shove the annual value of 12 /.

752. Viscount Hutchinson.] I suppose I am right in helieving it to be your view that that heing the case the necessity of making application for particulars to the Court, puts the suitor who has to apply at a particular

disadvantage, whether landlord or tenant? Certainly: that is my view.

753. And more than that, that the form of the originating notice stating, as it does, no particulars even as regards improvements or as to the amount of reduction of rent looked for by the tenant, also places him at a considerable disadvantage?

I have always thought so, particularly with regard to the tenants, there being no limit to the tenants' demand. I think the decisions of the Sub-Commissions (in the first instance only) invariably awarded costs against the landlord. They would have decided differently as to the costs in all the cases if the tenant had been obliged to state the limit of his demand, because then upon coultable principles whichever suitor came nearest the rent subsequently fixed as the judicial rent, would have been entitled to his costs, or would, at least, not have been liable to have costs awarded against him.

754. In fact, you suggest that ignorance on the part of the landlord of what the tenants demand, or the exorbitance of the demand, very often prevented a settlement out of Court?

Yes, I think it prevented settlements, decidedly.

755. Would you suggest any way in which the practice might be amended in this respect particularly? I certainly think that the originating notice should contain all these war-

ticulars : the nature of the improvements, the date when they were effected, and both the capital value, and the annual value, of those improvements as estimated hy the tenant, or that subsequently to the originating notice those particulars should he furnished, hut in ample time for the landlord's valuator to have them with him when visiting the lands, because, without those particulars, the valuator is at a disadvantage His evidence of value must be regulated by what he sees, and also by what he knows to he admitted and to be in dispute hetween the parties.

756. You think, then, that the landlord's valuator's duty would be facilitated, and and that it would tend perhaps to arrangements out of Court if that course were adopted?

I thick it might.

7.57. We have leard a good deal from the last winess shour the record of improvements for the future goldance of the Court, and we understand that there is practically no official record of that sort, except notes takeo by the Sub-Commissioners, does it not strike you as being extraorly dangerows that there should be no record kept of improvements in Court, both with a view to appeals at the present time, so off sixing fair, result 18 years latter?

Both with a clew to appeals, and fixing fair rents 15 years later, I think it is a most serious defect. Practicioners in the Land Court have never known what record is kept. Unless a record is kept of improvements, of the amount claimed by the tenant, and of the amount awarded to the tenant, and in respect of what improvements, the landlord (and probably the tenant tool will find thinself at

very great disadvaotage in the future.

758. That is the form in which you would suggest its being kept?
I think those particulars should be kept as a record of the Court, and I have

It thus those particulars assume to sept as a record of the Louir, and I shave recorded in the Loud Commission Court, and to be open to impaction by either party; they should be kept under an index of both the parties' names; that is, the tomoral and the landbord's muone, and Josh the names of the to-halled's the tomoral and the landbord's muone, and Josh the name of the to-halled's bard to discover to the future what particular form may be in question of the record in only kept under the beaut of the tennant's name.

759. Lord Tyrose.] Are you aware that there was a form seut down to the Sub-Commissioners on the 12th December with a column for that information?

I have heard it, but I am not at all aware of it.

7in. Viscount Hutchinson.] I will ask you to tell us what you know about the duties and fees payable to the Inland Revenue under the Land Commission?

The duries are almost nil. The fee is 1. c. on the originating notice. Of course that is a serious question, and though it is one that does not directly concever inalized, yet it concerns the general public. In an ordinary action to the control of the control o

761. Chairman. Can you give us some idea of what the whole cost of trying one of these cases before the Sub-Commissioners will amount to?

That curies very much. The provision in the Schedule of Fees, as at presect constituted, is fixed usain in each case for the solicitor's fee; but it provides that, by special arrangement, the solicitor may recover more from his clean. If if the solicitor has one case for one client and no more, unless he were readiling pay him for the work to be done, which includes recording the valuator's report, examing it, and coosiling with his clean; for that the few would be folling inadequate. If, instead of one ones, be has hundered of cases, it is a different matter; , to that the cost really varies very much according to the number of

762. Let us take one case. Supposing a landlord has a controversy with his tenant about one holding, and has no other case hefore the Sub-Commissioners, he must still have the assistance of a solicitor, he may or may not have counsel, and he may or may not have a valuator; but what, generally speaking, would he the cost which the landford would have to pay in that case?

NUMBLE AND THE OFFICES WHICH MADE HAMBERS WOULD FIND THE OFFICES AND THE OFFICE AND THE OFFICES AND THE OFFICES AND THE OFFICE AND THE OFFICE AND THE OFFICE AND THE OFFICE AN

9th March 1883.] Mr. Moone. [Continued.

bably 6 L 6 s., because he has to visit the farm and value it, and then he has afterwards to attend, for a day, to give his evidence in court.

763. That would be about 14 L? That would be about 14 L?

764. Then, if should had to pay the costs of the other side, which I understand is not generally dooe now, how much more would that amount to?

Those costs are fixed, absolutely, by the Schedule, and would depend upon

the rent-765. The Court fixes the sum?

Yes.

756. What sum are they in the habit of giving? The sum is fixed by the Schedule of Fees. On the average holding of from 10. t to 30. L a year reat the solicitor's fee would vary from 11. t to 2. L, that would have to be paid to the opposite party beside expenses.

767. There would be a great deal more than that; the landlord must pay the tenant his costs; then there is not only the solicitor's fee, but the fees of witnesses he may have had to retain. Perhaps he may have had a valuator too, and the Court, as we have understood, is in the babit of fixing a definite gross sum for the costs in that sort of case?

I am not aware myself personally as to what sums they have fixed.

768. Suppose, instead of there being only one case, as I have put it at first, a landlord had a dozen temants' cases, what would be the difference in the cost to him; it would not be 12 times the cost of one case, I suppose's

No, certainly not. The valuator's fee, for instance, would be reduced, because he would be in attendance in all the cases, probably the same number of days as he may have to attend in one case. It would be very bard to estimate it under such circumstances.

769. Would the solicitor's fee change?

th would certainly, if hriefs were prepared for counsel, or if his attendance were prolonged in consequence of laving a number of tenants' cases.

770. What would the habit be, would the solicitor receive a fee for each case or for the lump, or would counsel receive a fee for each case, or for the lump?

The counsel receives fees for each case, smaller or larger, as the case may be. The solicitor, I think, as a rule, although entitled to demand his fee in each case, takes it in a lump.

771. Viscount Hutchinson.] What facilities are given you at the central office in Dublin for the inspection of records?

I cannot say what facilities they have given of late; that is to say, in the last few weeks; is tull very lately they refused access to the books. When you pressed them to state whether the tooks were not for public use you were never old they were not, but they were always either not forthcoming, or it was said that they were not intended for you to see, and that they could answer you tust as well without inspecting them; so that, practically, you were refused

772. We have had a good deal of evidence upon the subject of notice of trial.

What is your experience upon that. I do not mean the originating notice, but the notice when cases are coming on for trial. Can you speak from personal knowledge as to that?

I can. I wrote to the scortary to know what cases were coming on in the county of Tyroca, and he informed meth that ybo pode to give 14 days notice in every case. Perhaps your Lordship will allow me to go back to your last leading to the company of the property of the company of the company of the company of the count at prevent allow their brokes to be impected, as they are in settual use throughout the day."

735. Chairman, What books are those?

The records, the county books; but they gave a reason then, so that I was

merely correcting the answer I had given to Viscount Hutchinson. He states:
"14 days' notice of trial will in all cases be given to parties."

77a. What was the object in inspecting their county books? At that time my object was to see the order in which cases were entered as having been recorded.

775. Marquess of Salishary.] They refused you access to that list? At that time they did, on the ground that their books were in use.

776. Did they refuse to give the information which you asked for. If you wished to know what number a particular case stood at in the list, would they not

give you that?

I never knew whether they would or would not. They were most courteous in their answers, but it was absolutely impossible, they said, to give any information then as to the number of cases.

777. What date was that? That was, I suppose, three weeks or a month after the Commission opened,

778. Have you made any applications later? I have made later applications, but not to know the number in which any

case stood.

770. You do not know, therefore, whether that prohibition to examine the books for that purpose exists still?

I do not.

780. Viscount Hutchinson. Mr. Micks says in his letter that he will attempt to give 14 days' notice. does he not?

to give 14 days' notice; does he not?
No; he says that 14 days' notice will in all cases be given.
781. Is that your experience. Do you generally get 14 days' notice of

trial?

Just hefore leaving Doblin I received a notice giving me nine days' notice, and out of that you may deduct two Sundays; that was notice of lease cases

oming on.

782. Do you look upon 14 days' notice as sufficient?

By no means.

783. Chairman.] Was that case coming on in some country place? No; in Dubliu.

784. Before the Court itself? Before the Court itself.

785. What sort of case was this? To declare leases void.

786. But if you were not ready, would they not have extended the time? I think they would. An application has been made to the Court in my absence to extend the time, and I believe they will allow it to stand to the bettom of the list.

787. Viscount Hutchinson.] What are your reasons for thinking 14 days not sufficient?

There is bardly any proceeding under the Ast for which notice is prorided, that the Commissioner themsilers do not think 12 days the cereor period. They have fixed 14 days for the most cordinary notices between handhood and continuy with between two parties in a few course, 15 in softward and a continuy with between two parties in a few course, 15 in softward or of the state of parties of 10 days notices for sins, in that ready from the institution of the sust you your opponent is proceeding. It is not so here, because the originating coales in field, and you may not hear of it for months. In the present position of business it may not be heard of for years, until you undealny get 10 days recording of the contract of the sustain the proceeding. The proceeding t 9th Marni 1882.] Mr. Moore.

788. Chairman.] Is there not a considerable difference between an ordinary suit and these cases. In an ordinary suit the inter-rening time is occupied by the exchange of pleadings, and things of that kind, which go to instruct the minds of parties on either side, or are supposed to do so, as to what is to be tried, but it is all blank. Here; during the time which clauses between the giring of the

notice and the actual coming to trial there is nothing to be done?

That is exactly what I was eudeavouring to convey, and that is the way in which I should wish to have put it.

789. Viscount Hutchinson.] I suppose there ought to be no reasonable difficulty in extending the time to 14 days?

culty in extending the time to 14 days?

No: because, as a matter of fact, they have the cases waiting for rial listed in

their offices, and when I have applied there for cases they have told me that it is not usual to give them out until 10 days before, although the printed lists are lying there.

790. Marquess of Salisbury, Have mortgages any noise given to them: Not in the case of applications to fix fair rests. In the cases of fixing fair rents by agreements, notices are inserted in the papers that the agreement has been entered into, and calling upon any parties to intervene or object, if they think proper.

791. Notice is put in the papers, but above notices may or may not reach the mortgagees?

They are very unlikely to reach the mortgagees, because the larger number of the mortgagees are English mortgagees, I should say, and these notices are published in the Dublin papers.

792. The Court makes no inquiry whether the rent is subject to mortgage or not?

None whatever, that I am aware of, on such applications.

743. Is the mortgagee bound by the agreement made?

That was very much discussed at one time by Irish lawyers.

794. How was it decided?

If has never been decided; the question has never been mised. It does seem to admit of some doubt; the mortgages' right, I presume, at common law, is quite clear; he has the legal estate in him, but whether the Act has been sufficiently distinct in creating these statutory terms or not as against the mortgages I could not undertake to say.

795. Viscouni *Hutchinson.*] Would you say that the system of notice to all parties interested, such as middle men and reversioners, is or is not very clearly defined, or very clearly known?

I am aware of one very serious case arising in a western county in which

the handlord is the owner in fee of an estate which has been let to a middle man, I think, for there lives. The last of those lives has now very unstrict time in possession of this lead, which must have lorgely improved in whate since. The middle man based bett in a summer of termint; these termans, as better each other, have given, as I san informed, large some for transactigate, and pand and also paid fines to him. Felt remain have been applied for in this case against the middle man, without novice to the head handlood. In this particular instance the lambdown has been applied for in this case signiste the middle man, without novice to the head handlood. In this particular instance when the contraction of the contraction o

706. Chairman.] What does the Act say about that?

I think it says, in the 15th Section, that the landlord must take on the subtenants when the lease drops. Although the circumstances of the case, holding, and district, are in dispute, and will have to be considered in the cases of the tenants, they really do not concern the head landlord at all; though they very seriously affect his rights, he has had not eatings with the tenants themselves.

Continued.

9th March 1882.] Mr. Moore.

Continued. 707. Lord Brahwene. He had delegated his rights to the middle man, you say? Yes.

708. On a lease for lives ! Yes.

700. And this is the last life which is dealing with the sub-tenants, quite irrespective of the landlord's rights : I do not know that the life is dealing with them, but the tenant for life is:

the life may not be the owner. 800. Chairman.] Have you been concerned before any of the Sub-Commissioners yourself ?

Only before one Sub-Commission as yet.

80:. Where was that ? At Nass.

Sc2. Did you appear personally yourself or by counsel: I appeared by counsel,

Sog. Was that one or two cases?

l only had two cases heard. I have other cases in the list not heard; they come on again on Monday,

So4. Was the holding inspected by the Sub Commissioners ? It was

Sos. And did they take evidence, besides, as to the value of it?

Ther did. 800. And then did they deliver judgment, and state their reasons for their

decision? I was not present at the judgment in this case. There was a fatality about it.

They did not give judgment on the day we anticipated they would. They do not generally give reasons. The only reason reported (as the counsel who was pre-sent informed me) was, that they brought them hack to the old reats. The rents had been raised upon a vuluation made for the landlord about 10 Venue ago

'o7. And they brought them back to what they stood at before !

Yes. If I may mention the particular instance, these lands joined the Curragh of Kildare, the military camp, and the old rents were fixed before the Corragh Camp was in existence, and it was considered, before the rents were fixed, that they might fairly be raised.

808. Viscount Hutchinson.] To go on with this question of notice, we will suppose the case of a property which was being sold under the Landed Estates Court, and that the tenants had served originating notices on the landlord for a reduction of rent; would not that practically stop the sale? In my opinion it would. I do not think any purchaser would dream of pur-

chasing under those circumstances. Sog. What would the Lended Estates Court do; would they proceed with

the sale, or stay it i I had reason to enquire upon that point very lately, and at first the opinion of the examiners, and the officials of the Court, was that they would lean against

permitting the sale to go on. 810. Do any sales take place now in the Landed Estates Court?

One or two have taken place at what the Judge considered, according to his reported observations, a very low value; but now the course, they inform me, they will probably take is to state on the rental that such-and-such tenants have applied to have a fair rent fixed; and I look upon that, of course, as a har to purchasers; they will not hay law suits.

811. Suppose a tenant goes into Court and chooses after a time to withdraw his case, what is the first notice the landlord would get of that? (0.1.)No

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[Continued 9th March 1882.7 Mr. MOORE.

No party can withdraw a case without an application to the Court under one of the rules. He must apply to the Court for leave to withdraw the notice; but then if he does not do so the case would be listed, whether the tenant chooses to abandon his case or oot, so that if the tenant leaves his case derelict, it will be listed in spite of him, as I understand the practice-

812. Is there any average number of cases which are generally listed for a particular city? I have seen a very large number on the list, and I should say they vary from

30 to 60; perhaps the average would be from 40 to 45.

\$13. Chairman. Do you mean sent down to a particular Suh-Commission to Yes.

814. Viscount Hutchinson. You have got statistics, I dare say, as to what is

the average number of cases heard? I should be obliged to state that very widely. I should think that from onethird to two-thirds of the cases listed are heard; sometimes even less than the lowest proportion I have mentioned, and sometimes the list is nearly got

through. \$15. Still suitors are always obliged to he prepared, if their cases are on the

list, to come forward at any moment? Yes, it would be a very great risk to be unprepared or not to attend, because 20 or 30 cases may be decided on similar grounds, and perhaps very rapidly.

\$16. Therefore it very often happens that a person is there with his witnesses, valuators, and everybody, waiting for his case to be heard, then it may be adjourned, and six months afterwards he may have to come back to the same

place at very considerable expense; in fact, at precisely the same expense that he incurred on the previous occasion? When he comes back again the expense would be greater of course, because the full expense will be thrown upon the real hearing of the case. The

adjournment may cost what adjournments usually do in these cases, fees for valuator, solicitor, and counsel, and a fee probably for the witoesses, so that the cost of an adjournment is an additional cost thrown on the laodford by reason of the case not being heard. That amounts to a very large sum sometimes. I should say if a man has a large number of cases the cost of adjournment may vary from 10 l. to 30 l.

817. Is there any remedy to be suggested for that?

That depends upon the whole working of the Act; I mean the mode of listing cases for trial. I could not venture to suggest any remedy that would not have the alternative of throwing a large part of the expense on the public. because if the Commissioners list a large number of cases that they think they may get through, the possibility is that they may get through them in half the time, and then be idle until the time fixed for another town.

S18. Then a case having been decided by the Sub-Commissioners, supposing there is an appeal, I think a fortnight only is allowed? A fortnight's notice of appeal.

819. Do you consider that sufficient ?

No, that is not sufficient. I think that is amply evidenced by the fact that a large number of landlords who have not appealed in cases heard will have to pay the costs under the old practice of the Sub-Commissions. That has now heen reversed by the Chief Commissioners in one case in which an appeal has been lodged, so that landlords who are visited with the costs of the first hearing, and have not appealed, will now have to pay those costs.

820, Chairman. Would an appeal have lain merely on the question of No, I think not; but if the appellant had appealed upon general principles

he would probably have got the costs along with it. \$21. Supposing he had appealed upon the merits of the whole case, and had 9th March 1882.] Mr. Moong. [Continued.]
not succeeded on the merits of the case, would be have succeeded on the

question of costs?

Perbaps I should rather have put it in this way: that I think the appeal would have left the case open for him, and that some way would then have been found by which the appeal not being heard he should have his costs.

822. You do not suggest that he should have an appeal, though that appeal most fail, merely for the purpose of setting right 6 L or 8 L in the court below:

No.

823. Earl of Pembroke and Montgomery.] Is there any other reason for

giving a longer notice of appeal?

There is every reason; that which I have mentioned is only an incidental reason.

824. I should like to hear what further reason there is? There is not sufficient time under that notice to consider the effect of the

decision. The decision, although only given in one case, may affect an entire estate, and a landlord and his advisers certainly require more time to consider whether they will alide by that decision in othe particular case, and take up other cases, or whether they will appeal in order to get it altered.

whether they will same by that december in the particular case, and that up of other cases, or whether they will appeal in order to get it altered.

\$25. Chairman.] The Court in Dublin have power to enlarge the time for

appealing: Yes; but not, I take it, after the time has expired.

826. After the 14 days, you mean? Yes.

827. We understand they have made a rule which gives them power to enlarge the time, even if it is not applied for until the time has expired? I think the furthest limit up to which the decisious put it some time ago, was that you have the 14 days after the order is signed, not after the day that it is

that you have the 14 days after the order is signed, not after the day that it is pronounced.

828. You have only 14 days as a matter of right; but we understand that a rule has been made by which the Commissioners have power, on application made to them, to have an enlargement of the time for taking run step in the

proceedings, and, among the rest, for appealing?

That is not one of the rules published in October, and I am not clear about it.

829. Marquess of Salisbury.] Would not a rule printed in Dublin have reached you: I think it would if for one reason alone, namely, that the secretary generally

sends those rules to persons known in bis Court.

830. If they were even advertised in the Dublin papers, I suppose somebody

in your office would take notice of them? I think so. S3:. If they have made the rule they have probably kept it to themselves? I should not like to go as far as that from my own knowledge; but I have

not heard of the rule, and I have been watching the cases very closely.

832. A formight is a much shorter time than is ordinarily allowed, is it not,

for appeals in legal cases?

A much shorter time than is allowed in the Court of Chancery. Under the old practice you had a year if the judgment were recorded, and you had two years if it was not recorded. I think I am correct in that statement.

years if it was not recorded. I think I am correct in that stateme 833. And analogous periods in other legal proceedings?

834- Have you had any information as to the reason which induced the Commissioners to fix so short a time? None.

0.1.) K 3 835. Do

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[Continued. 835. Do they take any notice of suggestions or remonstrances addressed to

them with respect to their rules?

I could not say that; I have never remonstrated as to any rule, except as to the notice of trial being so short,

836. Chairman.] Their rules have to come before Parliament, have they not? They have; the rules are laid before Parliament. There is one point which I would wish to correct, with your leave. I am not clear that you cannot appeal on a question of costs. I see no provision against it.

837. Viscount Hutchinson.] With regard to cases of breaking leases, I suppose there is pretty much the same objection as there would be in the ordinary

cases of originating notice to the matter of particulars? Just the same; there are no particulars (as there would be in pleadings in any other court) stating facts as to alleged threats of eviction or undue influence.

There again you are met entirely with a case of surprise when the case comes on for hearing. But I presume those particulars would be given upon an application either in a greater or a limited degree. *38. As it stands now, of course, if the laodlord is away it is easy to say it

was him, and if the bailiff was away it is easy to say it was him? As a matter of fact, a very eminent member of the Irish bar told me that was the practice among the tenants.

Sag. Marquess of Salisbury. And if anybody is dead, it is very easy to say

it is him?

840. Viscouut Hutchinson.] I do not thick I will trouble you about the purchase clauses; we have gone into those very fully this morning; but I would just like to ask you with regard to the investigation of the landlord's title; what is the process us to that? There has only been one sale or a sale of one estate to a number of tenants. so that I cannot speak at all accurately upon the process as to the title; but

the rules are simple, and the landlord furnishes his title in the ordinary way. I have heard an objection made upon the ground that a landlord was unable to sell an outlying estate, or townland, without making out the title to his whole estates, which might mean a very expensive matter, for the sake of gerting rid of a troublesome towuland.

841. Was there not an Act of Parliament passed five or six years ago to facilitate the registration of title in Ireland? Not a Registration Act; but there is the Act of last Session, the Con-

vevancing Act, which would very largely facilitate it. I think in the case of the Land Commission it is to a great extent inoperative. I do not know, but I do not think the Land Commission hold themselves in any way bound to accept title under the provisions of the Conveyancing Act.

842. Chairman.] What provision of the Conveyancing Act do you refer to? As to the responsibility for and expenses of investigations of title as between vendor and purchaser antecedent to the time stipulated as the root of title.

843. Viscount Hutchinson, What does that Act provide

It gives wider powers now; you have not the same expense in preparation of title, and the investigation is not so strict; conveyances are simplified. 844. Chairman.] Are you not aware that on the 5th of January this order

was issued: "It is ordered that from and after this date, in lieu of so much of Rule 22 as provides that the Court may at all times extend the time prescribed by their rules for serving notices or dolog any other act, the following rule be substituted: The Court shall have power to enlarge or abridge the time appointed by the rules, or fixed by any order enlarging time, for doing any act or taking any proceedings upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed." I suppose that has been published somewhere in Dublin, has it not? I am quite certain it must have been, but I have never heard of the rule.

845. Marquess Printed image digitised by the University of Southampton Library Digitisation Unit

9th March 1882. Mr. MOORE. Continued.

845. Marquess of Salisbury.] Consequently, you have not heard of its being put into force !

Never; on the contrary, the general impression is that the landfords in this class of cases have been ousted by the fact that they could not serve notice of appeal. I was not at all aware of that rule.

846. Chairman.] It does not follow from that that leave would be given in such a case, does it?

847. Viscount Hatchinson.] Have you seen a Return presented two days ago with regard to the amount of work that has been got through by the Sub-Commissioners lately :

Yes, I have, and I have made some notes upon it.

\$48. We are given to understand that of late the business got through by the Irish Land Commission and the Suhordinate Commission has been going very fast, and shows a marked improvement upon what it was originally, and that this fact takes away all anxiety as to there being any fear of any serious block of the courts : is that the way you look upon it yourself?

I do not know whether I have taken the figures correctly, but the figures I have here are 3,206 cases of fair rent decided altogether in the Court; and again, if I am correct, since the 28th of January and up to the 24th of February. 4,983 cases have come into Court, so that in one month there are more cases brought into Court than have been decided in four.

849. Lord Brabourne.] Have you added the cases decided out of Court? No, I have not: I have purposely excluded those, because this is with regard to the rate of business.

850. But may it not be the case that as certain principles are decided upon and certain decisions given, more cases will be settled out of Court That is just the great difficulty of the Act at present, that no principles are

given; we do not know upon what principles to settle. 851. But certain appeals have been made, and some are probably pending. According to the decisious upon those appeals, is it not probable that a con-

siderable number of cases will be decided out of Court I think a considerable number will be decided out of Court, but not exactly upon that ground, but rather from the feeling that the landlord's rent is going to be reduced in any event. The decision of the celebrated case of Adams v. Dunseath, decided the other day by the Court of Appeal, has decided certain questions distinctly in the landlord's favour, if I may put it in that way; but it is perfectly open to the Assistant Commissioners to give no grounds for their decisions still, and to arrive at a reduction of rent by some other method; no reasons are given as a matter of fact.

852. Lord Tyrone.] Do you consider that it would assist very much in making arrangements out of Court if there were some definite line drawn as to the grounds on which these reductions are made?

I think so, decidedly; because in the first place if the landlord looked upon that line as adverse to him and saw no hope of it heing reversed, he would settle in spite of everything; and certainly the tenant would.

853. You think the tenant would also do so? I do, eventually.

(0.1.)

S54. Marquess of Salisbury.] As a matter of fact, is it the general impression that no particular principle runs through these decisions; I am not speaking of whether that is correct or not, but merely asking your opinion as to the state of feeling about you; is that a general impression, or has any principle been

The view that I have most frequently heard expressed is that of the landlords; and, of course, that is but one side of the question, and their feeling is that no principle is arrived at which guides the decision. I have also heard the views of tenants very freely expressed.

855. What

Sth March 1882.] Mr. MOORE. Continued.

855. What is their view?

Those I have heard look upon the whole thing as a humbug,

856. In what sense do they look upon it as a humbug; it is a great reality in the sense that it does reduce the rent?

They expect a further reduction in a large number of instances, now that the

they expect a nurrier reduction in a large number of instances, now that the idea has got abroad, if I may put it so, that the prurier value is all the tennot has to pay for; he thinks that due regard has not been peid to his interest.

857. And looks upon this as a mere instalment? As a mere instalment.

As a mere instalment

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 $858. \ \, \text{With a confident hope of obtaining more instalments later on ?}$ Certainly.

859. But even there, does the tenant think that this instalment has been given to him on any distinct principle, or does be think it has been merely given to him to shut his mouth for the time being? That is just where I cannot speak.

860. You do not know enough of the tenant's opinions to speak as to their view in that respect?

No; they certainly are sware and feel that no definite principle is announced. They think that their improvements are now being regarded for the first time in the matter of rent, but that more regard should be paid to them; but I have never heard them speak as if there were any definite principle.

861. The Sub-Commissioners never attempt, do they, to draw a liue between the reductions they allow on the ground of improvements and the reductions they allow on the ground of other considerations? No. not in the amount.

862. They simply allow a lump reduction?

802. They simply allow a lump reduction? They do; but they generally state that it is in respect of improvements. I am speaking now more from reported decisions than anything else; because, as I sav. I have only been once before the Sub-Commissions.

863. Lord Tyrone.] Have you not employed counsel, or been consulted in a great number of cases? Yes, a large number.

864. You have had a great deal of experience of the working of the Sub-Commissions, although you have not been actually before them: Quite so,

865. Viscount Hutchiuson.] I gather from what you say and from what you read just now, that it is your view that, instead of the husiness of the court diminishing, it is increasing?

It is increasing.

866. Have you ever made a calculation of when the 70,000 cases are likely to be finished?

I have calculated that variously. I take very much the view that some of the extreme people on the other side take, that it will take about 12 years to exhaust the business.

867. Marquess of Salisbury.] To exhaust the present business, without reference to the number of other cases that may come in? Certainly; that is the view taken by Mr. Healy, if I may mention his view.

S68. Viscount Hutchinson.] Mr. Healy, if I may mention his view.

Yes.

869. It is not very difficult to give us some of the causes of this large number

of cases having come into court?

The causes of the original block are various, I think; but they may be attributed, in the first instance, and mainly, to what is known in Ireland as the "extension of the first occasion."

870. Chairman.

9th March 1882.7 Mr. MOORE.

870. Chairman.] The sitting was made a continuous one for a fortnight or three weeks, was it not?

Yes; under Sub-section 2 of Section 8, it is declared that the rent shall hegin to run "As from the period commencing at the rent day next succeeding the decision of the Court."

571. What advantage was gained by the applicants coming in as they did on that first occasion?

The 60th section then declares that "any application made on the "first occasion " (that is the wording of the section) "upon which the Court sits after the passing of the Act, shall have the same effect as if it had been made

on the day on which the Act comes into force, unless the Court shall otherwise direct. 872. Marquess of Salisbury. What is the effect of that? That depends on whatever effect the particular order may have in increasing or

diminishing the rent.

873. Chairman. 1 do not yet understand the advantage they gain. The judicial rent was not to ron from the date of the application, but from the gale

day next after the order of the Court, was it not? Yes, but under the 60th section it declares that any application made on the

occasion on which the Commissioners first sat, shall have the same effect as if it was made on the same day the Act came into force; and the person by whom such application is made, if the Court thinks just, is put in the same position, and has the same rights in respect of his tenancy as he would have been in and would have had if the application had been made on the day on which the Act comes into force, and any order made on such application would be of the same effect.

874. The next is the important part? "And any order made on such application shall be of the same effect as if it had been made on the day on which the Act comes into force, unless the Court otherwise directs."

\$75. So that they first create the block of 50,000 or 60,000 cases, or whatever they amount to, and whenever the order comes to be made upon them it will affect the rent from the gale day next after the application? Upon that point I have the opinion of three very eminent counsel at least, and

that is, that it is invalid, but the Commissioners purport to do it. 876. Then what was the advantage they gained in this case?

Mr. Justice O'Hagan declared at the first sitting that the tenants would have this, and therefore the block gross by a large number of cases coming in.

877. Lord Tyrene. J I was going to ask you whether it was notknown all over Ireland that if any tenant applied to the Court on the first occasion, and got his rent reduced 12 years later, the reduction would date from the passing of the

Act? Quite so. 878. And was there not also another question raised, whether the rent could be collected pending the decision of the Court ?

It was raised-879. Was there not a question raised throughout Ireland, whether it would be

possible to collect the rents in any case until the decision had been given? I think that arose from the statement of Mr. Assistant Commissioner M'Carthy on the opening of his Court, when he told the suitors that the collection of rent would be practically impossible.

880. Chairman.] Where did he say that? I am afraid I could not state the town, but it is perfectly well known, and there is no question about it.

881. Can you supply us with the reference to the statement? Certainly, I will supply the reference.

889. Lord (0.1.)

9th March 1882.] Mr. Moone. [Continued.

852. Lord Tyrone.] In regard to the cases lodged on the first sitting of the court, was it in regard to those cases alone?

If was generally in regord to the cases throughout Fedand. He said that cent would be principally incorporally until the fair real was fixed; but the impression was reversely the control of the control of the control of the impression was reversely the control of the control of the control of the an in pression throughout relands in many parts that the sensati 'sights would be lost slicopether i'll be did not come in on the first occasion to have a fair reat perchapt, the fact that, when he be to ask as a traded before the Commission on their application to have a fair rest fixed, one of the Sub-Commissioners decided they would not exist the control of the control of the control of the through the control of the through the control of the control

883. Chairman.] That it should be the same or a lower rent? Yes.

884. Who said that?

cation, fix the same or a lower rent,

One of the Sub-Commissioners; but that was reversed. 885. It was reversed on appeal?

Not on appeal, but hy some declaration of the Chief Commissioners.

886. Viscount Hutchisson,] Looking at the effects of these Sub-Commissioners' contra, do you believe that it is only cases of excessive rent that will come under the cognisance of the Sub-Commissioners, or do you believe that every class or sort of rent that may exist in Ireland will be touched?
Of course, that again I cannot speak to from my own knowledge, that from

circumstances with which I am well acquainted I think that it will affect all classes of rent.

887. You have seen statistics to that effect?

Yes, I have.

888. What has been the general effect of the whole thing to the landlord's interest in land, so far as it has gone? I have found the effect myself, in many instances; particularly in the impos-

sibility of getting loans now, even for the purpose of consolidating family charges and mortgages.

889. Marquess of Salisbury.] Does that apply to Ireland as well as to England; will not people lend money in Ireland?

It is, of course, Irish land I speak of exclusively.

890. You have not made application to English capitalists, have you?

I bave, and they will not lend money.

So1. Neither English nor Irish capitalists will lend money?

No, nor Scotch capitalists; hut, as a rule, I think, Irishmen are rather more

free in late years than Englishmen; and, therefore, I mention them only.

802. Do you mean that they are more cautious?

No, they are more ready to lend.

893. Do they refuse now? Yes.

894. Absolutely? Absolutely.

895. Does that apply to the Irish banks?

They do not generally lend upon the security of mortgages. Their security is rather personal, and has regard to the position of the person to whom they lend. I do not know how that may be affected, but there is no doubt they are more cautious in lending.

more cautious in lending.

896. Chairman.] Have any steps been taken, in your experience, to call in mortgages according to the present state of the tbings?

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Yes:

9th March 1882.] Mr. Moore. [Continued.

Yes; notice to call in bas been given in every direction; but I find that mortgages are forhearing because they do not think the estates would realise anything if sold.

897. Lord Brabourne, I would like to ask you one question as to cases you are acquainted with as having come into Court; it has been stated that in all probability the cases first decided have been the worst cases where there have been excessive reats; is that your experience, or do you suppose that there are

cases of the same sort that will continue to come in?

I think the cases decided in the first few weeks were probably cases of the greatest bardship; I could not say that for certain. But that cases have come in of the very best character, so far as regards the landlord's dealing with tenants, there can be no doubt.

898. It is fair to strike an average of the 2,000 or 3,000 cases decided; it would not be fair to say that they represent only particular class, good or bad, but that they are average cases throughout?

Certainly.

899. Viscount Hutchinson.] To go back to the question of security; I suppose the sales in the Landed Estates Court are one thing that you judge

by when you speak of the security of land in Iraland?

Yes; as I said before, some sales are not going on at all; they are practically stopped, and the judges will not force on sales as they formerly did. Where

the owner objected they formerly forced them on in spite of bim.

goo. Do you look upon these settlements out of Court as any great criterion

of the fairness of this judicial tribunal?

No; I think the settlements that I bave heard of as yet out of Court are really made under what I may call coercion. It is under the fear that the landlord will suffer upon the whole rather worse from the Commission than he

may do from his tenants.

901. I suppose there are among the people who have made settlements with tenants few people whose land was rented high?

That I could not say, 902. You have no statistics about it?

No; the settlements made out of Court of course one bears less about.

gog. Marquess of Salisbury.] It has been asserted that settlements have been made out of Court under correction, as regards the tenant, that is to say, where the tenant is largely indebted to the estate, and that under threat of eviction be has made a settlement; does that come under your notice?

No, I have not heard of it, but it is of course possible.

904. But your impression is that landlords' settlements have been to a great

extent made under duress?
Those I have heard of liave been of that character, certainly.

gos. Has that duress heen applied by the fear that their rent would be reduced, or by the absolute impossibility of getting their rent paid, and so living

from day to day?

By both causes I should say; and only very lately I heard from one of the most extensive agents in Ireland that if the impossibility of getting rent continues in the present ratio, and the harvest goes over without getting the rent, the landlord will lose more in beta way than in any other way.

qo6. Duke of Norfolk.] You are speaking of cases settled out of Court? I do not speak of the cases in Court.

qo7. Marquess of Salisbury,] Those will be settlements procured, not by any decision of the Commissioners, but by dread of the operation of the Land League? What he referred to was the operation of the Land League.

(0.1.) L 2 908. Lord

84

9th March 1882.] Mr. MOORB. [Continued.

908. Lord Tyroze.] Has not the expense attending going into Court been a great element in inducing landlords to agree out of Court if they can? Most decidedly; particularly the smaller landlords, on whom the expense

comes more heavily in proportion than upon a larger state.

909. Also you consider that their fear of the action of the Courts, as regards their renus, would be an inducement to settle out of Court?

Certainly; and I think that any landlord will settle if his tenants are not

Certainly; and I think that any landlord will settle if his tenants are not utterly unresonable, although he would never dream of settling except for the fear of the action of the Court.

910. Marquess of Sciistory.] Is it your impression that the effect of the operation of the Courts has been to induce a larger and readier payment of rents?

No that he were the courts have been to induce a larger and readier payment of rents?

No, that has not been my experience in any way, because I know very little about the west of Ireland, where rents have been absolutely refused.

911. You are not very well acquainted with the parts of Ireland where rents are refused? No.

No.

912. Lord Tyrone.] I asked the last witness whether he was aware that the
rule obliging landlords to give fourteen days' notice of sale of the interest in a
tensary had caused the landlords great difficulty in serving that notice; you

are aware of that rule, I believe?

Quite so.

913. Has that rule caused great difficulties in collecting the rent?

913. Has that rule caused great difficulties in collecting the rent It has, judging by the reported cases, caused great difficulty.

914. Is that a rule of the Chief Commissioners? It is,

915. Could you explain why that would not come under the Secretary's notice; Mr. Godley stated in his evidence that the fact did not come under his notice; could you say why?

I cannot concoive its not coming under his notice if he had saything to do with the rules at all, because the validity of the rule has been discussed. It was thought by some people that the Commissioners had no right to prescribe a rule affecting the haddlerd's common law right, or rather his right as a creditor to proceed for the sale of the farm, and let the sheriff go in under an execution. The Act howers does give them power to frame such a rule.

916. They have now given power to serve those notices through the post, have they not?
Yes.

917. Do you not consider it is a great hardship upon landlords to have to serve their tenants twice instead of, as they used to do, once?

I think it is a great hardship, and it puts them in a position in which no other creditor is. A landford when he sues for rent is taking his right as an ordinary creditor and not his paramount rights as a landford, and a disability is placed upon the landford, because an ordinary creditor could not be compelled to serve a notice for sale of a tenancy in that way at all.

g18. Earl of Pembroke and Montgomery.] Have you found that great inconvenience practically arises on the appeals from the Sub-Commissioners not giving the grounds of their decisions, not saying, for instance, how much rent

ought to be set apart for the tenant's improvements, and how much rent to a fair rent for the holding, and so on? There is great inconvenience in preparing for trial; but there is none in hearing appeals, because at present there has been only one appeal, that is to say, an appeal of any insportance. Some 50 have been hearing to the type are the say, and appeal of any insportance. Some 50 have been hearing but they are in-

919. It would practically make a great deal of difficulty, would it not. A landlord would not know on what grounds exactly to appeal, and would have great difficulty in finding out? Quite so; it would be almost impossible.

ozo, Lord

significant appeals.

9th March 1882.7 Mr. MOORE. Continued.

920. Lord Tyrone] I asked Mr. Godley whether that particular rule I have now referred to produced great friction and great difficulty in the present state of Ireland, and he said, "My own helief is that there have been very few of those cases; no doubt there must have been some, or the Commissioners would not have made that order; but I think there have been in our office very few appliestions or notices about the sales of tenancies," Would your experience lead you to believe that there must have been a very large number of those

14 days' notices served? Yes. I thought your Lordship referred to the rule not being under Mr. Godley's notice, and I could not understand his not being acquainted with the role; but those notices would not be served through the Land Commission at all; the notices are served on the tenants independently and he would know nothing of them.

921. You are obliged by the Land Commission to serve them in that way?

922. Duke of Norfolk.] When you spoke of having calculated that it would take 12 years to get through the cases, had you takeo ioto consideration the cases settled out of Court?

No. I had not. 923. That would materially reduce the time ? Of course I was calculating that at the rate that they are at present deciding them it would take 12 years; of course if any of the cases at present in Court

are settled out of Court, it affects the calculation I have made, 924. Earl of Pembroke and Montgomery. Is their any machinery existing, apart from this Act, hy which tenants are in the habit of registerion the im-

provements they make? No. Under the Land Act of 1870, there is a provision, but it is practically inoperative.

925. Do you think it would cause great expense to tenants and to landlords if, wheo a fair rent is arrived at by the Court, they were obliged to register im-

provements ? None whatever, because I think the Land Commission should do that for them. A Sub-Commissioner has the very best means of judging what those improvements are, and if he arrives at a fair judgment, I think there can he no pos-sible objection to the registration of it, and it does not add in the slightest degree to the cost.

926. Of course the registering of specific improvements would be a great convenience when the holding came to he re-valued at the end of another 15 years? If something of that kind is not done, the consequences to the landlord it is impossible to foresee; they will be simply fearful.

The Witness is directed to withdraw.

Ordered, That the Committee he adjourned to Tuesday next, at Twelve o'clock.

Die Martis, 14° Martii, 1882.

LORDS PRESENT:

Duke of NORFOLK. Duke of SOMERSET. Duke of MARLBOROUGH. Duke of SUTHERLAND. Marquess of SALISBURY. Marguess of ABERCORN.

COMERY.

Earl of PEMBROKE and MONT-

Lord TYRONE. Lord CARYSPORT. Lord KENEY. Lord PENZANOE. Lord BRAROURNE.

Earl STANHOPE.

Viscount HUTCHINSON.

Earl CATRNS.

THE EARL CAIRNS, IN THE CHAIR.

MR. THOMAS GEORGE OVEREND, is called in; and Examined, as follows:

927. Chairman. You are a harrister, I believe? Yes.

q s 8. And you have had some experience of the working of the Irish Land Considerable experience.

929, Viscount Hutchinson. I believe you have been engaged as Counsel for the landlords before Sub-Commission No. 2, which has been going round the counties of Down and Antrim?

930. May I ask how long you were engaged before that Sub-Commission? A little over five weeks, during its first circuit.

931. Up to when? From its first sitting until the 6th of December 1881.

032. You were also engaged in the same interest before the Chief Commisners sitting in appeals at Belfast, were you not?

During the hearing of 40 appeals from Sub-Commission No. 2.

33. How many appeals were there at that time?

They have only heard those 40, and 12 others; 52 in all. 034. But those 40 appeals arose out of how many cases?

Out of 79 cases. 935. You have also been engaged before No. 12 Sub-Commission, have you not?

I have been with No. 12 Sub-Commission during the whole of its first circuit, from the 10th of December 1881 to the present, save a fortnight. 936. That Sub-Commission sat in what counties?

Cayan, Fermanagh, and Monaghan.

037. Would you give me the names of the members of Sub-Commission No. 23 Messrs. Greer, Baldwin, and Ross.

gas. And L 4 (0.1.)

Continued. 14th March 1882.7 Mr. OVEREND.

938. And what are the names of the members of Sub-Commission No. 12? Messrs. Hodder, Bomford, and Weir.

939. Who are the legal Sub-Commissioners on those two Sub-Commissions? Mr. Greer, a Solicitor, is the legal Suh-Commissioner on Sub-Commission No. 2; and Mr. Hodder, a Barrister, is the legal Sub-Commissioner on Sub-Commission No. 12.

940. With regard to Suh-Commission No. 2, will you tell the Committee what work it has done?

During the time that I was with Sub-Commission No. 2, it heard 79 cases. and fixed 74 judicial rents; but according to the Parliamentary Return which brings down the work of Suh-Commission No. 2 to a later period, they have done some further work.

941. What work has Sub-Commission No. 12 done?

Sub-Commission No. 12 has fixed about 250 judicial rents up to the present.

2. Do those two Suh-Commissions travel out of Ulster? No: but they may be removed to other provinces.

043. We will take Sub-Commission No. 2 first; did you notice the rate of progress of that Sub-Commission

Yes, I can give you details. In the first week they sat at Belfast and Newtownards, and fixed 20 judicial rents; in the second week they sat at Downpatrick, and fixed 15 judicial rents; in the third week they sat at Larne and Ballymena, and fixed 12 judicial rents; in the fourth week they fixed four judicial rents; and in the fifth week and three days, they fixed 22 judicial reats; making in all 74 judicial rents; and they dismissed five cases, which make up the 79.

944. What is about the average? The average would be less than three cases for each of the 27 working days in that period.

945. What was the amount of rental dealt with? The rental dealt with was 2,218 l. 2s. 1d.

946. And what was the amount of the judicial rents fixed? The judicial rents fixed amounted to 1,678 l. 19 s. 5 d. Three of the cases

were affirmances of the existing rents, two were increases, and 69 were reductions. 947. What did the reductions amount to?

Taking the loss on the entire transactions to the landlords engaged, the reductions were the smallest fraction under 25 per cent.

948. I understand you to say that since you were practising before the Sub-Commissioners they have dealt with other cases?

Yes; in the Parliamentary Return presented to both Houses of Parliament by the Irish Land Commission, the work of Sub-Commission No. 2 is brought down to the 28th of January in the present year, and that shows that the reductions made by the Suh-Commission continued at about the same rate. Taking the counties of Down and Antrim together, the Return shows a reduction of over 25 per cent., the reductions in Down heing just under 26 per cent.,

and the reductions in Antrim being about 24 per cent. The figures showing the old rent and the judicial rent are in the Parliamentary Return. 949. Apart from the question of land value or anything of that sort, do you see any reason why those reductions may be considered to be fair, or small, or excessive?

I have no doubt that the reductions were excessive.

950. On any particular ground of principle laid down subsequently?
Yes 1 know now beyond any doubt that they were excessive, hecause on the
Sight of February, in the present year, the High Court of Appeal in Ireland
reversed the Chief Commissioners' decision, the Chief Commissioners baving on

the preceding 19th of January confirmed the decision of Sub-Commission No. 2. That decision by the High Court of Appeal shows that necessarily the reductions made in every case decided prior to the 28th of February 1882 must have been excessive to a very large extent-

951. Marquess of Salisbury. You have no means of knowing how far they were excessive until the cases are retried, have you?

No, unless the cases are re-heard on appeal the extent of the loss resulting from those errors of principle can never be known-952. Because the Commissioners never distinguished between what they gave

on general grounds and what they gave for unexhausted improvements? Never. We could never understand how the judicial rent was arrived at.

953. Lord Brabourne.] But many of those cases have not been appealed against, bave they? No; that is a very important matter. The "first occasion" was twice extended

for the purpose of serving originating notices; but a rule limited the time of appeal to a fortnight, and that "occasion" has never been extended; and the result is that there are only 704 appeals returned out of the large number of eases that have been decided, and the opportunity of appealing has, practically gone by.

054. What I meant was this: that those landlords who have been proved by the decision of the High Court to have been damaified by the decision of the Sub-Commissioners, have to a great extent now no opportunity of obtaining a reversal of that decision, not having appealed in the first

instance? They have lost it unless they incur more costs. Rule 22 enables the Land Commissioners to extend the time for serving notices, or for doing any other act, . and accordingly under that rule a landlord might, by making proper affidavits showing the circumstances, and by a motion on notice moved before the Court in Dublin, obtain (or not obtain) an extension of time upon that motion; but be would necessarily have to pay the costs of the application, and in one instance where an extension of time was obtained the party making the

application to have the time for appeal extended did in fact pay the costs. 955. Marquess of Abercorn. In what way did the judgment of the High Court of Appeal show that the reductions had been excessive; do you mean in relation to the tenants' improvements?

046. Because there was no direct appeal to the High Court from decisions except on legal points?

The way in which an opped lies is this. Any person aggreeved by any Order of the Court of Sub-Commissioners may, within a fortnight, serve a notice requiring the case to be reheard by the three Chief Commissioners sitting together. When that rehearing comes on before the three Commissioners sitting together, if a matter of law orises, or, to use the expression of one of the Chief Commissioners himself, if there is a doubt as to principle, a case may be stated, not as to value or as to the amount of the reduction, but as to any principle of law involved in or prising out of the hearing.

957. Viscount Hutchinson.] But I rather understood Lord Brabourne's question to point to this: that those suitors whose cases have been decided, and who have now found themselves to be aggrieved by the decision, either of the Chief Commissioners sitting in Appeal or of the Supreme Court of Appeal, are at this moment practically unable to move in the matter of appeal at all; that, in fact, their right of appeal is dead? Their right of appeal is dend.

958. Marquess of Salisbury. But it is capable of being resuscitated? It is capable of being resuscitated on the payment of costs by making an application in each case.

м (0.1.)oto, Supposing 14th March 1882.7 Mr. OVEREND. Continued.

959. Supposing that the Commissioners accede to the application? Always supposing that the Commissioners allow it.

960. What would be the costs of the application?

90

The costs of the application would be four guineas a side at the least, so that ao applicant would pay four guineas for the application and four guineas for the

tenant's costs. of 1. If he had fifty cases decided against him would he be obliged to bave a special motion in each case?

That matter has been considered, and two leading counsel at the Irish bar the other day stated, in Court, that no counsel of any position or standing would take a fee in one case and a nominal fee in the others.

962. He would take a fee for each of them? There must be a fee for each of them. Of course I, as a counsel, not of the same standing as those eminent Queen's Counsel, would be bound to follow

that etiquette as they laid it down. 963. Lord Penzance.] But independently of the etiquette as to the fees, the

application would be an application to the Court in each separate case? It would, and it would be necessary by reason of there being separate records.

964. It is necessary, as a matter of form, to make a separate application in each case, and that raises the question as to the fees? A record is kept with reference to each transaction, and a copy of each thing done must be filed on each record, such as a notice of motion relating to the

individual case demanding an extension of time, and on the same record there must be filed the order extending the time. q65. If there were 500 cases, although they all depended upon the same

point, there must be 500 applications to the Court, and 500 orders? Exactly. a66. Lord Tyrone. What is the difference between the cost of appealing in an

ordinary case and the cost of appealing when the time for appeal has elapsed? If you are within the fortnight your solicitor merely delivers a ootice to the opposite solicitor, saying, "I require this case to be reheard."

967. And then there would be no costs? There would be a matter, perhaps, of 6 s. 8 d.

g68. Marquess of Salisbury.] But for those landlords who have made agreements out of court on the strength of those decisions there is no hope at all?

None. 969. Lord Tyrone] You meetioned that the judicial rents fixed by many of those decisions were excessive; in fact, I understood you to say that in all those decisions given up to the time when the Dunseath case was heard on

appeal the judicial rents were excessive? I should wish to qualify that by saying that in all the cases in which any question of improvements or deterioration arose, the reductions were necessarily excessive.

70. How was that?

The matter arose in the first instance before Sub-Commission No. 2. The case of David Adams v. Mrs. Dunseath, was heard in Ballymens before Mesers. Greer, Baldwin, and Ross, about 15th November 1881. They had previously heard in Belfast a case on Crawford's Estate, or rather a series of 15 cases,

971. Marquess of Salisbury.] That is still under appeal, is it not? It is still under appeal. That was one of the very first cases decided; and in Crawford's case they had laid down principles which they re-affirmed in Dunseath's case. There were appeals in all of them, but the Dunseath case happened to be listed for hearing prior to Crawford's cases, and the same principles were involved. In that decision by the Sub-Commissioners they declined to put any limitation upon Sub-section 9 of Section 8 of the Statute.

972. That

Continued.

772. That is Healy's clause?

That is Healy's clause. They simply read it as it appears the sub-section; and they refused to hear anything by way of a limitation attached to the clause with respect to the time that a tenant might have enjoyed the improvements, or with respect to any benefits expressly or impliedly obtained by the tenant in consideration of the improvements. I should also add that leases to a certain extent, that is to say, expired leases, affected the matter both in Crawford's estate and in the Dunseath case, and the Court decided that improvements prior to the granting of the lease belonged to the tenant. The Chief Commissioners on the 19th of January confirmed the decision of Sub-Commission No. 2 (Mr. Vernon, however, dissenting), and decided that there was no limitation to affect this Sub-Section 9. All that has been reversed by the High Court of Appeal on the 28th of February 1882, and they have decided that this sub-section is limited by the last clause of Section 4 of the Act of 1870.

973. Lord Tyrone.] Was the loss to the landlord under those decisions of the Sub-Commissioners great? Yes. The best way to see the extent of the loss would be to look at the several

limitations placed now upon Healy's Clause by the decision of the Court of

974. Marquess of Salisbury.] Can you give them shortly? Yes. In the Dunseath Appeal the question was merely whether the last clause of Section 4 of the Act of 1870 limited Healy's Clause, because only

the last clause arose in the Dunseath case. 075. What was the last clause?

"Where a tenant has made any improvements before the passing of the Act

on a holding held by him under a tenancy existing at the time of the passing thereof, the Court in awarding compensation to such tenant in respect of such improvements shall, in reduction of the claim of the tenant, take into consideration the time during which such tenant may have enjoyed the advantage of such improvements, also the rent at which such holding has been held, and any henefits which such tenant may have received from his landlord in consideration, expressly or impliedly, of the improvements so made. 976. And the Court of Appeal attached that to Healy's clause?

Yes; that and more.

(0.1.)

977. What more did they do? They said that under Section 57 of the Act of 1881 it was provided that any words or expressions in the Act of 1881, which were not defined by the Act of 1881, and which were defined by the Act of 1870, should hear the meaning put upon them by the Act of 1870, unless the same was expressly altered or varied by the Act of 1881, or was inconsistent therewith. The two Acts were to be construed together as one Act. Accordingly, Mr. Commissioner Litton having stated in the Dunseath case that the tenant was entitled to have deducted from the letting value of the holding the increase of the letting value by reason of the improvements, the Court of Appeal in Ireland decided that that was wrong, inasmuch as it confused the definition of an improvement given by the Act of 1870, with the increased value resulting from the improvement; and they held that the word "improvements" in Healy's clause meant improvement works suitable to the holding, and did not include any portion of the letting value resulting from those improvement works.

978. The principal point was that they struck out the letting value, and they provided that enjoyment in the past by the tenant should be considered? Those were two main points; but there was a third. They decided that a

house erected by Adams, or rather by Adams' predecessor, prior to the granting of the lease, was the property of the landlord.

979. Viscount Hutchinson.] You were counsel in the case yourself, were you not? I was

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Mr. Ovenend.

Continued.

I was counsel in the case hefore the Suh-Commissioners and before the Chief Commis-ioners sitting together; but I was unable to attend when it was heard before the High Court of Appeal.

gSo. Earl of Pembroke and Montgomery.] The Clause of the Act of 1870, which you quoted just now, refers only to improvements made hefore the passing of the Act of 1870, does it not?

That is true; and that particular clause only affected the case of Adams v.

Dunseath; but the other clauses would, of courses, apply in other cases.

q81. Chairman, What other clauses do you refer to? The other clauses in the 4th Section of the Act of 1870. The principle of the control of the control of the Act of 1870. The principle reference is the control of the Chairman of the Chairman of the Chairman of the reference is the control of the Chairman of the Chairman of the Chairman of the foliage a fair was to have regard to the interest as the landed and the transact respectively, we must book at the Act of 1870 to find out what was the tensor's interest as the long what the transact interest now in 1885 counted be greated compensation were being put forward under the Act of 1870, as amended by the Act of 1881. Therefore, he says that the transact instress its such use as the Coard send there gives upon a claim for compensation for improvements and the Card send the property of the Chairman of the Act of 1870, and although the case of Adams and Dumenth only concerned deductions under the later chairs of the Chairman of the Chairman of the Act of 1870, and although the case of Adams and Dumenth only concerned deductions under the later chairs of the Chairman of the read as having those several provisions.

attached.

g82. But the ratio decidendi, as you understand in the case of Adams and
Densesuh, would go to all improvements?

It would go to all improvements within the exceptions of the Act of 1870. The 4th Section of the Act of 1879 provided that the tenant should be entitled to compensation on quitting his farm, for improvements made by himself and his predecessor; und then follow a number of provinces limiting that right. There appears no doubt, as a matter of lew, that those several provinces, as far as applicable, are now to be reads asttached to Heal's clause.

983. What was the principle with regard to an improvement effected before a lease was granted; was it that upon making a lease you started fresh, and could not go behind it?

The way it was argued on the part of the landlord was, that you could not accept a lease without surreadering any prior interest in the land, though you and your prodecessors might have put up improvements upon the land. If you should accept a lease for a term, that was a surrender at law of everything antecedent to the lesse.

984. Was that the ratio decidend of the majority of the Court?
There were seven judges, and I do not think the majority agreed upon the reason.

985. Marquess of Sallistury.] Have you any means of judging how far those appealed against principles operated in the decisions of the Sub-Commissioners; that is to say, how much loss has been inflicted upon the landfords in conse-

They operated daily, in almost every case.

g80. You have no notion of the pecuniary extent of their operation? In many cases it would be large. I have in my mind several cases in which the rent would have been confirmed.

987. Chairman.] That is to say as it stood? Yes, as it stood.

988. At least you think so?

quence of wrongful decisions?

Yes; in one case I have no doubt, because in one case it was a small house upon a small holding of a few acres. The house was exempted from reat, as being

ooo. Was

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being the tenant's, but it was erected prior to the lesse being granted; and the landlord would have been entitled to a small increase of rent had the house

heen valued as his property. qSq. Lord Turone. You apprehend that this decision will have an immense influence upon the working of the Act in future ?

If carried out in the full spirit of the judgment of the High Court of Anneal in the case of Adams and Dunsenth, it will have a very large effect

900. Chairman. How many appeals were there from the Suh-Commission which you attended in the North

Out of 79 cases heard while I was with that Sub-Commission, there were 40 appeals actually heard; but I know that there are 15 more, so that would be 55 appeals from 79 cases,

001. Then of those 40 appeals, how many were heard before the case of Adams and Dunseath was decided? All were heard.

002. I thought that the case of Adams and Dunseath was one of the 40 cases?

It was. 903. All the 40 cases were heard by the Commissioners? Yes, and the case of David Adams against Dunsenth was the first; but judg-

ment was not delivered until the end of the sitting; and then judgments were delivered in the entire series.

934. Taking first, the decisions of the Commissioners in Duhlin on those 40 cases: supposing that any of the parties in those 40 cases had been of opinion that the decision in Dunseath's case would have affected what was decided in those 40 cases, would they have had any means of going to the High Court of Appeal?

There is a clause in the Statute requiring the Chief Commissioner to state a case for the High Court of Appeal wherever a matter of law of importance arises. There were, moreover, four other cases in which Mrs. Dunseath was the landlady, more important than the particular case before the Court of Appeal. The rents were fixed in those cases, and I dare say upon motion to the Court of Appeal in the remainder of the 40 cases, or at least the important ones of the 40 cases, they would permit them all to be re-heard.

95. At all events there is the power of asking them to do so? I do not know that it is anywhere saved; but the Commissioners seeing the loss the landlords would otherwise sustain, would. I have no doubt, state a case in each of them.

on6. Has there been any such application that you know of made? No. the 28th of February is so recent.

997. Now take the other 39 cases; supposing that any of the persons con cerned in those cases thought that the decision of the Sub-Commissioners was erroneous, and would be affected by the law laid down in Dunseath's case, even although the 14 days allowed for appeal are out, might they not gu to the Land Court and to the Land Commissioners and ask for special leave to appeal?

Such of them as had not served notice of appeal to the Chief Commissioners are empowered by Rule 22, upon application to the Court, to have the time extended; and, as I have already stated, I knew of an application of that description. A motion was made to extend the time, and the party applying, whether landlord or tenant, I do not recollect which, had to pay the costs of the motion to extend.

008. But had the Commissioners any difficulty in granting the leave? There were a great many special circumstances in the case, and a misunderstanding between the parties, and they had no difficulty in granting the right of appeal.

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(0.1.)

900. Was the ground of applying for leave to appeal, the new decision in

Dunseath's case, or special circumstances: Special circumstances resulting out of negotiations between the parties,

1000. Of course, a case of that kind might occasion a good deal of costs; but would there be any serious costs incurred in an application simply upon the ground that the Court of Appeal had decided a new point of law; and that that

had been done after the 14 days had expired?

Hardly. I think that the Chief Commissioners would allow the motion, each party shiding his own costs.

1001. Would the costs of a case of that kind, which would not be eucumbered by affidavits or other special circumstances, be considerable?

You might say three or four guineas. 1002. So that you might say that the parties to each of those 39 cases, who

wished to appeal, would have the chance of applying at their expense oow? Yes, they have the chance of applying.

1003. Marquess of Salisbury.] But the Sub-Commissioners have been going on, though the case of Dunseath is recent: have you any ground for relieving that they have taken the decision of the Court of Appeal into consideration in their decisions since the 28th February?

There are no existing reports, save newspaper reports, of that decision. The authorised reports will be printed in a very short time, and after that the full force of the decision will be felt.

force of the decision will be set, 1004. Do you mean to say that they are giving decisions against the landlord until the printer is ready with the report?

Your Lordship will beer in mind that only the Chairman of the Sub-Commission has any knowledge of law. The decision in the case of Adams and Dunseath is a difficult one; very claborate judgments were delivered in it, and my opinion is that its full force will not be seen, except by trained lawyers, for a considerable time.

1005. Lord Tyrone.] Am I right in believing, from what you have stated before this Committee, that a great difference is made in this case by reading the two Acts together; the Act of 1870 and the Act of 1881? It will become at once clear by reading Section 4 of the Act of 1870, with Healy's Clause, and the definition of improvements in the Act of 1870.

1006. That is hardly my question. I asked whether that was one of the great causes of the decision by the Court of Appeal, that they read the two Acts tourether?

That is the groundwork of the decision.

1007. Up to the time that the decision was given did either the Sub-Commissioners or the Chief Commissioner read the two Acts together in any points?

As far as I was connected with Sub-commissions, they fid not; I cannot specify of my orn personal knowledge with regard to the other Sub-commissions, but I helieve they did not. The Chief Commissiones upon the 10th January distinctly the 10th of January to the 28th of Pebruary; a period of six week, the losses were universal all over I reland; become cash Sub-Commissioner, however doubtful the might have here previously, was bound to Glow the decision of the

Chief Commissioners given on the 19th of January.

1015. With regard to reading the two Acts together: under the Act of 1870 you are aware that all, improvements are taken as having been made by the tenant, unless proved to have been made by the leading.

That is scarcely a correct statement of Section 5, in my opinion.

1009. Will you state it correctly, and state it briefly?

"For the purposes of compensation under this Act in respect of improvements on a bolding which is not proved to be subject either to the Uister tenant-right 14th March 1882.] Mr. Overend.

tenant-right custom, or to such usage as aforesaid, or where the tenant does not seek compensation in respect of such custom or usage, all improvements on such holding shall, until the contrary is proved, be decaded to have been made by the tenant or his predecessors in title, except in the following cases;" and then follow six important exceptions from that presumption.

1010. What are those exceptions?

"Where compensation is claimed in respect of improvements made before the passing of this Act: (1.) Where such improvements have been made previous to the time at which the holding in reference to which the claim is made was conveyed on actual sale to the landlord, or those through whom he derives title. (2.) Where the tenant making the claim was tenant under a lease of the holding in reference to which the claim is made. (3.) Where such improvements were made 20 years or upwards before the passing of this Act. (4.) Where the holding upon which such improvements were made is valued nuder the Acts relating to the valuation of rateable property in Ireland at an angual value of more than 100 l. (5.) Where the Court shall be of opinion that in consequence of its being proved to have been the practice on the holding, or the estate of which such holding forms part, for the landlord to make such improvements, such presumption ought not to be made. (6.) Where from the entire circumstances of the case the Court is reasonably satisfied that such improvements were not made by the tenant or his pred-cessors in title: Provided always that where it is proved to have been the practice on the holding, or the estate of which such bolding forms part, for the landlord to assist in making such improvements, such presumption shall be modified accordingly." Very little difficulty has been found arising from that presumption,

1011. Chairman. Let me ask you a question about that; all that is presumption of law is introduced by the Statute; and the whole of the section, as I understand, is controlled by the introductory words, " for the purpose of compensation under this Act "?

There will be a future law argument upon the meaning of those words.

1012. Earl of Pembroke and Montgomery.] The proviso in the Act of 1870, to which you referred just now about the improvements, to be read with the Act of 1881, also referred only to compensation for improvements on leaving the

Yes, the entire limitations in the Act of 1870 were only concerned with the tenent leaving the farm-1013. So that the same objection to applying it to matters of rent in the new

Act would apply to that, as well as to the other things which the noble Chairman iodicated just now? My own opinion is that Section 5 would now be read as part of the Act of

1014. Chairman. Notwithstanding those introductory words? Notwithstanding those introductory words.

1015. Lord Tyrone.] Let me ask you, with regard to that; suppose the landlord were unable to prove that the improvements made had heen made by his own predecessors in title, might not the tenant's rent be reduced in consequence of improvements made by his landlord's predecessors in title? That might be.

1016. Earl of Pembroke and Montgomery.] Have you any knowledge of whether that presumption, about who has made the improvements, has governed hitherto the decisions of the sub-commissions?

In actual practice I have not found it give any trouble to the landlord.

1017. I suppose practically it would not give any trouble, for this reason: that the tenant would always lay claim to any improvement for which he intended to claim reduction of rent? The tenant ordinarily claims the whole, and then the landford reduces the

claim. 1018. Marquess (0.1.)

1018. Marquess of Salisbury.] Have there been any cases in the way of

nurchases in the Encumbered Estates Court in which the landlord was prevented opposing the claim by not having any evidence hunded down to him from his predecessor? That would be one of the exceptions; an estate in the Encumbered Estates

Court is generally sold in lots; the purchaser of a lot does not get the rentals and surveys. We had a remarkable case of that in the Dunseath case, because Mrs. Dunseath's husband had purchased part of the estate of Mount Cashel in the Encumbered Estates Court, and at the hearing, an old officer connected with the Mount Cashel Estate was able to produce out of his own custody, surveys and valuations which be himself had made; but they were not in the possession of any purchaser of any part of the Mount Cashel Estate.

1019. So that a purchaser under the Eccumbered Estates Court is unable for want of evidence to prove that the improvements were made by his predecessors?

But he is taken out of the presumption by the first exception.

1020. And that is attached to Healy's Clause by the Dunseath Appeal? I would think so; but that is a doubtful matter of law to be argued.

1021. Chairman. Those matters to which you have been referring, open up a great deal of necessary investigation on the part of u landlord as to how improvements were made in years past. I want to ask you what amount of notice has the landlord of the tenant's case upon those points before he goes into Court?

He has no notice whatever.

1022. Is that literally so. We understand that in the originating notice there is nothing appended to the notice in the way of information as to what the tenant's case is; but how far can the landlord obtain that information before he goes into Court ?

The landlord, if his case is not one of those soon to be heard, could serve a preliminary notice upon the tenant out of Court requiring him to deliver particulars.

1023. If there is sufficient time to enable bim to do it he may serve that

Yes, heretofore there has not been sufficient time, but it is beginning to be done with respect to cases yet to be tried. 1024. You mean, in the carlier cases which were heard, there would not have

been time to have done it? It was impossible. 1025. Just let me understand how the landlord would proceed, supposing

there were time? He would serve a preliminary notice requiring the tenant to furnish, within

a formight, say, particulars, with the dates of the improvements which the tenant intended to claim, and to rely upon, in the application for fixing a fair rent. That notice has been served in a great many cases; but the tenant takes no notice of it, and here a difficulty arises. Ordinarily, the tenant has made a bargain with his solicitor to fight each case, say, for 1 L a-piece, and the solicitor does not like to enter upon an investigation of particulars for the limited remuneration which he has already received; and therefore, there being no rule compelling the tenant to answer that preliminary notice, it is habitually, and I may say without exception, disregarded by the skilled practitioner for the

1026. Lord Penzance.] Is that preliminary notice given in accordance with any rule of the Court? No; it would be irregular to describe it as under any rule, because there is

no rule relating to particulars in the proceeding to fix a fair rent. 1027. Is there any rule which says that the landlord may or shall serve such a notice, if he likes?

That

Mr. Overern. [Continued.

No; but there was Rule No. 99, which led to great mistakes upon the part of practitioners in the Court. The 99th rule provided: "Either purry may demand from the other before the hearing of such application, and, if necessary, may apply to the Court for particulars of the case intended to he made, either as to increase of value by means of improvements, or diminution of value by dilapidation of buildings or deterioration of soil."

1028. What do you mean hy "such application"? The application referred to in Rule 98, and it has been so decided by the

Chief Commissioners. 1029. Has that been decided?

That has been actually decided upon a motion in which I myself was

1030. Then the words "such application," in Rule 99, refer to the particular application in Rule 98, which is an application to fix a specific value to the

They have so decided, and an important matter arises here. The application referred to is a very peculiar oce. The full meaning of Rules 98 and 99 is this: Under the 5th sub-section of Section 8 of the Act of 1881 it is provided that "on the occasion of any application heing made to the Court under this section to fix a judicial rent in respect of any holding which is not subject to the Ulster tenant-right custom, or an usage corresponding to the Ulster tenant-right custom, the landlord and tenant may agree to fix, or in the case of dispute the court may fix, on the application of either landlord or tenant, a specified value for the senancy." But then, that was to enable the landlord, if thereafter notice of sale were given by the tenant, to purchase; and this application, in Rule 98, was, that if there was a difference as to the value of the tensney above or below the sum that had been specified, and a contest then arose between the landlord and the tenant as to the increase or dimination which had taken place in the subsequent period, then "either party might demand from the other before the hearing of such application, and, if necessary, might apply to the Court for particulars of the case intended to be made, either as to increase of value by means of improvemeets or diminution of value by dilapidation of buildings or deterioration of soil."

1031. So that you say the role has been held not to apply to an application for particulars of improvements in fixing the judicial rent? It was so held.

1032. Then supposing one side, the landlord for example, served a notice upon the renant for particulars and that was disregarded, and then if he wanted the intervention of the Court to obtain particulars, he would have to apply, not under that rule, but to the indulgence of the Court?

To apply to the indulgence of the Court, and ask that the tenant he ordered to furnish those particulars, showing, in an affidavit, reasons why he ought to get those particulars, and then applying for an order under the general jurisdiction of the Court to make any order for the purpose of carrying into effect the object of the Act. Then you state that it would facilitate the object of the Act if the Court, in the specified instance, would cause the tenant to give you the particulars.

1033. That application would not be to the Suh-Commissioners; it would be to the Court?

1034. Chairman.] That would require a solicitor in Duhlin and counsel, and affidavits to be sworn?

1035. And notice given to the other side?

1036. What would be the costs of that application? If you were careful not to have fallen juto the mistake of proceeding under (0.1.)

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the Rule 99, then you would have no costs to bear but your own; but if you had attached to your preliminary notice, "Pursuant to Rule 99," then the practice was to make you liable for the costs of the application.

1037. Lord Penzance.] In the meantime the case might come on before the Sub-Commissioners?

Yes; ordinarily we have arrived at the hearing without ever seeing the particulars. I have never seen particulars in actual practice-

1038. Chairman.] Would not the Court, in making the order, order that the hearing should not take place until a certain time after the application for par-

ticulars had been delivered? In an application, in which I was personally concerned, the motion was that the case be not sent down for hearing until a reasonable time after the tenaat had furnished the particulars; the Court did make that order, but in a case moved the next day it was said by the Court, that with regard to the case of the preceding day the order was made with respect to a substantial holding; and Mr. Litton stated that he did not think the Court would hereafter grant the applications where the holding was under the annual value of 12 l.; so that more than onethird of the holdings in Ireland will be excluded from the application.

1030. Earl of Pembroke and Montgomery. You told my Lord, that, as a general rule, the teaant claimed all the improvements upon the holding? Ordinarily.

1040. If he ordinarily claimed all the improvements upon the holding there does not seem much object in specifying them beforehand?

The agent may have been, in a period of 20 or 30 years, changed several times; the tenant for life, entitled to the rent, may have died, and the remainder man have come into possession, or the landlord may be a minor or a purchaser; and we have found in practice that great difficulty arose, because the dates at which those improvements were made, and whether they were made by the person who was the actual predecessor of the tenant or not, were in doubt,

1041. Marquess of Salisbury.] In what form does the tenant claim all the improvements; does he say "all the improvements which have taken place since this was bog and prairie land," or does he say, "this bedge and that playtre," and so on: does he enumerate them? He enumerates them; he enters into each barn and stable, and the minutest

improvements upon the holding. 1042. Chairman, How does he enumerate them, in opening his case?

In the witness-box he says, "I have made so many perches of fences," or "I have levelled such other fences," or "I remember when I was a child my father doing it."

1043. Marquess of Salisbury. Or, "I have heard that my grandfather did it? Yes.

1044. Chairman.] Do you mean that the tenant, or his adviser, conducts the case in that way? That is the tenant's evidence; the tenant's adviser has a very scenty brief, and he puts up the teaant and says, "Did you make these houses?" without

1045. Earl Stankope.] It is not necessary for the tenant to produce receipts for the improvements be may have made?

No, he will produce the rent receipts if they show an increase of reat. 1046. But if he has put up a pigstye or a barn, is he not called npon by the Sub-Commissioners to produce the Bill he bas paid for those improvements?

Never; because the tenant says, "I did it myself; with my own hands, I built this addition to the House." 1047. Is no evidence required, except a statement of that sort?

knowing exactly whether he did or not.

None: he never has any vouchers.

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1048. Marquess of Salisbury.] Is no corroborative evidence of any kind

required?

I would not say that. He will produce very respectable farmers who will depose to the addition, and it is right to say that in the great majority of instances the improvements are made by the tensants.

1049. Chairman.] But an adjacent farmer, who might have seen the improvement made, would know nothing at all as to whether the landlord had contributed to it?
He would not.

1050. You say the adviser of a tenant puts him into the box, and the tenant makes this statement about improvements; how do the landlord and his adviser meet the case; do they meet it immediately upon the spot?

.Upon the spot; they do the best they can.

We cross-examine them, sometimes at too great length, and the court calls attention to the time.

1052. Chrirman.] Have you ever known this said before the court, "This evidence comes upon us without knowing anything about it; it may be true or it may not be true, we wish to make some inquiry, and therefore make application that the case may be adjourned for a few days, when we will either admit

the claim, or, on the other hand, disprove it if we are able?"

There has been no adjournment granted without the landlord paying the tenant's costs of the day.

1053. What would that be?

That would differ according to the various circumstances of the cases. When a case is being heard in the country, counsel have to be brought down, so that the costs of the day would mean the whole sum.

1054. Have you known an adjournment granted at all, or granted frequently?
With researd to Sub-Commission No 12, on their first sitting they granted au

with regard to sub-commisses of Headfort in helf-a-dezen cases upon our paying costs of about four goiness in each of the cases; that would be 24 guiness.

10.55, Lord Brabourse.] Would not the costs in many cases bear a serious

1055. Lord Brabowre. J Would not the costs in many cases boar a subset proportion to the rent of the holdings; The rent of the holdings is very much smaller than English lendlords would believe. For instance, 400,000 of the 600,000 holdings in Ireland are under

believe. For instance, 400,000 of the conject homology in related as all annually.

1046. Marquess of Salisbary. Do you know what the annual value of those

1056. Marquess of Salisbury.] Do you know what the annual value of those six boldings was? No. we do not go into the case.

1057. Chairman. Supposing their value to be the maximum that you have stated, viz., 30 L, and the question in dispute, were a reduction or a non-reduction of about 25 per cent., then 4 L costs in the day would be well on to a year's reduction?

year's reduction?

Ordinarily a landlord would prefer to go on sooner thus pay those costs, but in that particular instance there was a frost; the Marquess of Headfort's estate bedered upon a large piece of long the the question of reclassation was a very bedered upon a large piece of long the the question of reclassation was a very sections and material guestion and the state of the Marquess of Headfort would have paid any sound to the thing the state of the state of the Marquess of Headfort would have paid any sound to not to see the seaant for any yearst until the cases would

have paid any sum for an adjournment. We also undersook, a part or the terms, in the meantime not to sue the remant for any rent runfil the cases would come on sgain.

1058. Lord Tyrons.] With regard to the screage, does the tenant generally put in a correct statement of the screage of his holding?

No; in more than half the instances the acreage is wrong.

(0.1.)

1059. What is the procedure then?

Then a contest arises, and the tenant ordinarily says that he does not understand statute acres.

N 2 1060. Chairman.]

Continued.

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1000. Chairman. Is he obliged to put the measurement in statute acres? He is obliged to put the measurement in statute acres, and os a matter of fact, the tenant and his valuators do not understand statute acres; it is impossible then to resist amendment; the tenant tells the acreage in Irish measurement, and son e one of those in Court, skilled in reducing I rish into statute acres, puts the statute measure into the notice.

1061. Duke of Somerset.] Then the Commissioners may do the nereage in their minds, and give too small a rent?

The acreage easily affects the rent; in mony cases I consider that a large part of the reduction is due to the change of acreage in the notice,

1062. Chairman.] How do you mean that the reduction of rent is largely due to the change of acreage?

Prior to the passing of this statute the exact area of a holding was not of much consequence, because the rent was fixed by contract, and it was sufficient to say that the farm contained so many acres more or less. Accordingly the tenant gives to the hest of his knowledge the acreage in the originating notice, which he usually gets from the clerk of the Poor Law Union, out of the Poor Law Valuation : it may be correct or not, according to the changes in the holding sioce the valuation. Then the landlord, who himself does not know the exact measurement, sends out his own valuator upon the land, estimating that acreage to be correct. The parties come into Court, and if the tenant is allowed to reduce the acreage by, say, 5 per cent., the landlord's valuator is made to discount his valuation at the average rate per scre,

1063. Do you mean that the tenant, ofter putting down the acresge at a certain sum in the originating notice, is allowed afterwards to diminish that? Almost at his pleasure.

1064. Without evidence?

By no meons; the tenant usually employs a school teacher, or some person of that sort who understands mensuration and surveying, and he goes out upon the holding, and say he has made a chain survey of the holding, and can certify that it contains so many acres. The Court upon a chain survey will amend as against any other evidence, because the landlord's cotries in his books can be no evidence against the tenant; and the Ordnance Map must be scaled off, and it is subject to great variations according to the weather. Scaling is very insecurate, and unless the landlord is prepared with a chain survey he must put up with the tenant's survey.

1065. What would be the expense of a chain survey to the hundlord? Two guineas a day for the surveyor upon the land; his attendance in Court

during the sitting is ot least ot the rate of one or two guiness n day, and there would be also his travelling expenses coming from whatever locality he resides in. The number of skilled surveyors and valuators is far too few for the demand now made upon them, and poor landlords must go into Court without either a skilled surveyor or a valuator in many cases,

1066. Marquess of Solisbury.] Did I understand you to say that the Ordnance Survey is too innecurate to be relied upon?

It is most accurate as to the acres in the townlands, but the fields have been continually oltered by fences being taken down and put up, and by reason of pieces of bog cut out for turf being added to the holding. Moreover, even if the boundaries were uochanged, as shown upon the Ordnance Map, the sheet of paper furnished to the surveyor varies very much with the weather, and the most competent will admit that an error of an acre is quite to be expected in sculing off 20 acres.

1067. Chairman.] Supposing the tenant employs the astional school teacher to make a chain measurement, is he paid as part of the costs?

He is paid, but not at anything like the rate of a skilled surveyor; he adds to his income in that way. 1068. It must be a material addition just now to his income?

But a schoolmaster could not very well continue in his office as schoolmaster if he had to attend the Court; they are persons who are either going to be school-

masters, or who have retired from that position, who do the surveying usually. 1059. Lord Tyrone.] Has the Court any means of ascertaining what the correct area is when it is in dispute?

None, save by evidence; and a large waste of time occurs every day for two

or three hours, the Court striving in vain to do justice between the tenants' demand for a reduction of acreage, and the inodiord's effort to retain the acreage set out in the originating notice. It usually ends to the Court saying, "Well, shall we divide the difference?" or, "Shall we strike off the odd roods and perches?" and really finding it impossible to resist that application, after a great waste of time, the counsel then consents.

1070. Chairman. Is it your opinion, having regard to the time occupied, and the expense to both parties of their respective evidence that money would be saved if the Court were armed with a measurer of their own to measure the holdings?

That would be a great boon. If the Government would make a survey of the fields as they sund, for both landlord and tenant, it would be an enormous hook to the country.

1071. You do not mean a national survey, but a survey for the purpose of deciding a dispute? Yes, as cases arise in Court.

1072. Marquess of Salisbury. Could a surveyor work as fast as the Court goes; could he keep a head of the Court?

I have not considered that point, but I think a skilled valuator can value 200 statute acres on a fair day of average length.

1073. Viscount Hutchinson. | How much could the measurer of the tenant do in a day?

I could not say exactly. 1074. Chairman.] It would depend a good deal upon whether the farm lay in

a ring fence, or in many fields? Yes; the fields in Ireland would average in these small holdings about an acre each.

1075. A square field would not take long to measure?

1076. Would you tell the Committee, if you please, what, under the Act of 1870, was the state of things in regard to a tenant giving particulars; was it by the Act that he was required to do it, or was it by the rules? Both by the Act and rules.

1077. What was the provision of the Act upon that point? Section 16.

1078. What does it say?

"Every tenant, entitled under this Act to make any claim in respect of any right, or for payment of any sums due to him by way of compensation, and about to quit his holding, may, within the prescribed time, serve a notice of such claim on his landlord, or in his absence his known agent; the notice shall be in writing in the prescribed form, and shall state the particulars of such claim, subject to such amendment as the Court may allow, together with the dates at which, and the periods within which, such particolars are severally alleged to have accrued; and where such claim, or any part of the same, is in respect of compensation under the provisions of Section 3 of this Act, the number of years rent claimed shall be specified." Under that section, ten of the judges of the rent caumed sman on specimen. Once thus section ten of the places of the Superior Courts in Dublin, including the Lord Chancellor, the Waster of the Rolls, and the chiefs of the Courts issued rules, which provided for a form of claim for improvements.

1070. What is the number of the rule requiring particulars? (0.1.)

[Continued.

It is Rule 3 of the Judges' Rules of 1870, and Form 1 in the Appendix, "Notices of claim under the 16th section of the said Act shall be in the Form 1, 2, 3, or 4 (as the case may be) in the Appendix to these rules, or as mear thereto as circumstances will admit." Then the Form given required the tenant claiming compensation for improvements made by himself and his predecessor in title, to state the nature of the improvements if claimed for, such as permanent improvements, and so on, and then adds, "Every item of demand must be specified with as much particularity as practicable, including dates, amounts. and the nature and description of the claim." The landlord then serves notice of dispute with regard to each particular item. The rules also provided the form of the decree which was to be made by the Court (Form No. 7).

1080. Lord Penzance. Do you know whether that worked satisfactorily? The judges never saw occasion to amend it, and it is in force yet.

1081. Earl of Pewbroke and Montgomery.] With regard to the specification of improvements, do not you think that many of the tengots being very illiterate people, the specification of the improvements might tend very much to interfere with the working of the Act, and to choke off the applicants at the beginning? The cases are ordinarily conducted by a solicitor; I have seen none conducted hy tenants.

1082. But if the tenant had to put down beforehand every improvement upon which be founded his claim for a reduction of rent. I suppose everything that was not specified would probably be excluded by the Court

Hardly; of course a tenant could not have taken advantage of the first occasion upon which the Court sat if there had been too many particulars required in the originating notice; but now that 70,000 notices have been served, it would seem reasonable to compel the tenant to serve a supplemental notice

giving full particulars. 1083. But what I meent was, if a tenant was obliged to supply the whole of the particulars, would not any be had omitted he excluded?

No, the Court would have all its powers of amendment, 1084. Chairman.] Supposing a tenant served an originating notice with a

note appended to it saying, "I claim to have made, either by myself, or by my predecessor in title, all the improvements upon this farm,"and then did what be could to support that, and did support it, partly, if not entirely?

The notice would be regarded as illusory by the landlord; and if he had time he would give notice of motion to have that set aside, and further and bester particulars given. As a matter of fact, the particulars furnished by the solicitor or the tenants in a number of cases io which the Court ordered them to be given did not give dates, but it was a material advantage to get the particulars such as they were.

1085. But under the Act of 1870, they were obliged to give the dates, or at all events, the periods? The dates are expressly mentioned; both the dates and the periods.

1086. Marquess of Salisbury.] Do the Court require, in the case of improve-ments, that the rule of best evidence shall be adhered to, or will they accept hearsay evidence? The rules of evidence have not been strictly adhered to, but that is as ad-

vantageous to the landlord as to the tenant.

1087. It would be, I imagine, more advantageous to the landlord than the tenant, because the landlord's agent would be obliged to say what the previous agent had told him?

Where the books have been estate books kept at the office, if the tenant had objected to them, the Court might have adjourned the case at the expense of the tenant. I think the Court has been very fair upon the question of receiving the best evidence. In fact, I may say, the landlord bas been very fairly treated upon matters of evidence by the Court.

14th Muzzh 1882. T Mr. Ovenyyn

1088. Chairman.] You said just now that it was the habit of the tenant to make a specific bargain with his lawyer to do the work for him for a fixed sum? That is so.

1059. Then what happens if the landlard is ordered to pay the costs? The bargain nose instance (it would not be right of courses to mention nauces) was that the solicitor should get so much for each case, or sometimes so much per serve for each nore in the holding, and that the should be at his-rety to take such costs as he might get out of the landlord over and above the sum received in hand.

1000. So that if he made a bargain with the tenant to do the work for 1.L, and the costs awarded to be paid by the landlord were 3.L or 4.L, he would put the difference in his pocket?

Yes, that was the way the thing worked until the Chief Commissioners decided that they would not make the landlord pay the tenant's costs, except in the case of there being something very unreasonable in his conduct.

1091. Since then it has not been usual to make the landlord pay the costs?

It has not been usual. It has been the ordinary rule that the landlord has not paid the costs; in no case does he pay the costs unless there is something very remarkable in his conduct.

1092. Lord Tyrone.] You were engaged before two Sub-Commissions; are you speaking geoerally of the two Sub-Commissions or of the first Sub-Commission that you were before?

mission that you were before?

Principally I am considering the actual practice wherever I may have been.

1003. Was not there some difference between the action of Commission No. 2

and Commission No. 12?

A vey important difference. Sub-Commission No. 2, in the first 15 cases which were bested, dededed that the student's about days abide his own coats, because he was in Australias and had never heard of the proseculine, but in all the remaining assess, with in exception to riffling that it seed not be noticed, hew ordered the houldood to pay the costs over and above a 25 per cent. deductions. Now Sub-Commission No. 12 went can up not 121 had of becomes the deduction. Now Sub-Commission No. 12 went can up not 121 had of becomes the contract of the contra

1094. Chairman.] How was that rule laid down, was it in the words of a general order, or in deciding a particular case?

The Commissioners stated it in deciding Dunseath's case.

The Commissioners stated in in deciding Dunisum a case.

1095. Marquess of Salisbary.] Was it retrospective in its effect; where the landlord had paid the costs was he allowed to have them back again?

No, that decision could not affect any cases except where the landlord had given notice of appeal.

1056. Lord Typnes, I Was the county cost given to the trenasts in all case I Sub-Commalsion No. 2 ordered that the insident should benearously as with the county ross, under an insupprehension as to the neasing of a clause in the Act of 1570. The Court considered that they were making an evilting the resta, and that a trenast would thenceforward become a new compier, and directed the landled to pay half the county cost; I atture as an additional 5 per cent. reforeion.

1007. But that would not have been recoverable by law?

It would have been binding unless the landlord appealed. Sub-Commission

No. 12 never made any orders with reference in the county cess.

1098. Viscount Hatchinson.] Was any great difference in the per-centage of reduction made by Sub-Commission No. 12, as a sgainst the per-centage of reduction made by Sub-Commission No. 2?

Down to the end of the Parliamentary Return which was to the 28th of

(0.1.) N 4 January

14th March 1882.7 Mr. Overenn. Continued.

January 1882, the reductions of Sub-Commission No. 2 were about 25 per cent.

Sub-Commission No. 12 I have brought down until the hearing of Dunscath's appeal upon the 28th February, and their reductions were 19 per cent.

1099. Chairman.] Both of these Sub-Commissions sat in Ulster, did they

not?

They both sat in Ulster.

They both sat in Oist

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1100. Viscount Hutchinson.] Did Sub-Commission No. 12 strike any difference between the actual value of the improvements made, and the improvability of the soil as resulting from improvements made?
I did find such a difference. Mr. Littoo, in his judgment upon the first

I do not used a currence. Arr. Latio, in us judgment upon use my speak, vir., Dunesenth case, had decided that the whole of the improved letting property of the control of the control of the control of the control of the about he deducted from the letting value to arrive at a fair rent. That was about he deducted from the letting value to arrive at a fair rent. That was consisted by Sub-Commission No. 12, but it was a hinding upon them; they had a distinct opioion that the improvability of the soil belonged to the landlord, and that is the view which is now held to be right.

1101. As decided by the case of Adams and Dunseath?

1102. Chairman.] When you say they held that opinion, did they express that in their judgments?

No, but you would infer it at the time of examining witnesses.

1103. It was your inference from their interlocutory observations?

Yes, it was my inference from their interlocutory observations in Court. 1104. Lord Tyrone.] I wish to ask you one question with regard to some

questions that were put to you a short time back; in Ulster is it possible to get a motion served for the tenant to put in a return of the improvements he has made?

There would be no difference as between Ulster and the rest of Ireland. I

understand your Lordship's question to refer to a motion to give particulars with reference to improvements, in a proceeding to have a fair rent fixed.

1105. Would not the fact of the value of a tenancy not being stated in Ulster make a difference? No.

1106. But in the tonant making a statement of the improvement he was about to claim?

Yes, the tenants have made this case, and they are frequently making it. They say that having regard to the landlord's and the tenants' interest, their interest in respect of tenant right, represents a sum per acre which should be taken from the annual value irrespective of whether it is made up wholly or

1107. Marquess of Salisbury.] But that view has never been supported in the Courts, has it?

partly of improvements; they have taken that view in Ulster.

No. On the last day of five weeks, during which Sub-Commission No 2 had sat, Professor Baldwin expressed the online in that there was no difference between a tenant in Ulter and the rest of Ireland with regard to the assessment of a fair rent, in both cases allie there was to be no rent assessed on the improvements; or, in other words, that so far as the tenant-right was made up of "good-will," it should have no effect on the react.

1108. Is there not a provint in Section 9 which bears upon that point?

When the matter was argued, attention was called to the fact that the price
pair for a holding was not to affect the question of whether the reot should be

reduced or increased.

1109. Chairman. Have you had any experience of the cases that have been decided by the county court, and not by the Sub-Commission?

I have not; I have never heen before a county court in a case under the Act

1110 In

of 1881.

1441 March 1009 7	Mr. Overend	

1110. In any of the returns is there a specification of the number of cases which have been decided by the county court?

I think there is no return of the number of cases decided by the county court as distinct from the others, but it is very small; not more than 200,

1111. Earl Stenkope.] In considering the improvements, is regard bad to the fact that the laudlord has supplied the nuterials; for example, the slate and the timber?

That is considered.

1112. In that case is it necessary to produce invoices of the landlord's expenditure? Ordinarily, the direct oral testimony of the witnesses is taken without the

vouchers. 1113. Duke of Somerset.] With reference to the county court; has the tenant the option of making his claim before the Sub-Commissioners or before the

county court, whichever he likes? Whichever he likes; but either party, even the tenant himself, though he has begun his case in the county court, may as of right leave it transferred into the Land Commission; and accordingly all the cases are in practice transferred there. There are two county court judges whom the tenants have entrusted

with their cases. 1114. If a tenant proceeds before the county court, the course of proceeding is the same as if be proceeded before the Sub-Commission, is it not?

It is not quite the same; it is the same in every respect so far as the particulars before the court are concerned; down to that point it is the same; but the county court judge declines to visit the holding in person, as he has so many other duties to perform, and he then makes use of the section authorising the court to appoint an independent valuator; he selects a valuator,

and sends him out upon the land. 1115. Chairman.] Do you say that all the cases in the county court have

been decided by two judges only? Practically, the whole of them; there are a few isolated exceptions; but the whole work has been done by Mr. Waters, as one county court judge, and, I think, Mr. Richards, as the other county court judge.

1116. Duke of Marlborough.] Are you aware whether the proportion of appeals is as great or greater from the county courts than from the Commis-

sioners ? There would be no means of stating that at present. The county court judges have decided quite recently, and their cases have not yet come up, so

that I could not answer your Grace's question. 1117. Chairman.] I ought to ask you this: in the proceedings before the Sub-Commissioners, what is the record of the evidence that is taken?

Each Sub-Commissioner makes some notes of the evidence. 1118. And with regard to the legal Sub-Commissioner; is be President of the Sub-Commission?

He is the Chairman of the Sub-Commission, and decides all matters of law bimself. 1119. Has he any special duty of taking a note of the evidence?

The Land Commission issues to each of them a note-book, and as far as Sub-Commission No. 12 is concerned, each Sub-Commissioner does take full notes. 1120. Has the legal Sub-Commissioner the special duty of taking a note?

Of course he pays special attention to matters of law, because be alone decides them.

1021. Supposing a question arises as to what evidence was given before a Sub-Commission, how is it to be decided? That is a difficulty in the statute. If it were a court of common law, either of (0.1.)

of the parties could be speak an attested copy of the judges' notes at the trial; but you cannot do that in the Court of the Land Commission. I know of an application that was made to the Court for attested oppies of the notes taken by the Sub-Commissioners at the hearing, which was refused.

1022. Are the witnesses sworn? Yes.

1023. Then when a case comes hefore the Commissioners, do they refer to the evidence which was given helow, or do they take the evidence afresh? They take the evidence afresh; it is a rehearing.

1124. Marquess of Abercorn.] Do they take any fresh evidence, or would it be the same evidence?

They would be the same witnesses, but it may be substantially a new case.

1125. Viscount Hutchinson.] The Commissioners are not limited to the same case or witnesses?
Not at al.

1126. Chairman.] Does any shorthand writer attend the Court? No, except a newspaper reporter.

1127. If either party orders a note to be taken, does he do so at his own

expense? He must do so. I never knew of a shorthand writer being employed by either side, save in the Dunseath case.

1128. Duke of Marlborough.] Where do the Sub-Commission hold their meetings?

They go on circuit to the principal towns within their jurisdiction.

1129. Where do they hold the meetings in a particular town?
The Land Commission appoints beforehand, for a period of two or three

months, the towns at which the Sub-Commission shall sit, and the time at which it shall sit.

1140. How do they provide a court-house for the business?

There is a provision, either in the Rules or the Act, that the petty sessions court, or the assize court, or quarter sessions court shall be available.

court, or the assize court, or quarter sessions court small he available.

1131. Chairman.] In giving their decisions have the Suh-Commission, as far as you have observed, gone into any detail, and pronounced what they assessed

the value of the land at, and what they assessed the value of the tenant's improvements at?

No, they never enter into detail in the form which your Lordship has mentioned. They say, "Having regard to the circumstances relating to the holding, taking into consideration its situation, and a variety of circumstances affects.

taking into consideration as statution, and a variety of etromistances alreading both the interest of the landlord and tenant, we declare the fair rent to be," so much.

1132. Earl of Pembroke and Montgomery.] Have the counsel for the tenant

ever asked this question, with the view to appeal; how much rent is due to the holding, and how much reat is due to the tenant's improvements? The direct question may, perhaps, not have been asked in the form in which you put it; but the Court proceeds in a different direction.

1133. They have never been asked to make that distinction, have they?

Yes, they have been asked.

The answer is that their authority was to fix a judicial rent, which alone they would fix.

1135. Then, when the hearing comes before the Commissioners, what is done as to the cridence then; do they compley a shorthand-writer?

The Chief Commissioners, stitung ougether, employ a shorthand writer; but

they themselves take short notes.

1136. Why

14th March 1882.] Mr. OVEREND.

[Continued.

1.136. Why is it that upon the hearing of an appeal a shorthand-writer is employed, whereas when the case is before a Sub-Commission, there is no shorthand-writer employed?

Because the time of the Chief Commissioners is of so much more value; they have to try all the appeals from all the Suh-Commissions, and they could not do the work if they were to be emharressed by anything like taking notes.

1137. Do the Sub-Commission proceed at a pace which enables them to take a full note of the evidence!

Yes, as far as the note can be taken in longband, like the judges at size prints.

1108. Viscount Hutchiscop. Supposing you were counsel for either party.

1138. Viscount Hutchinson.] Supposing you were counsel for either party, and wish to have an attested copy of the notes of a Sub-Commissioner for purposes of appeal, or purposes of that sort, would you be likely to get it if you asked for it?

It has already been refused; you cannot get it.

1139. Has that happened in more than one instance? In only one instance.

in only one instance.

1140. Was that the first iostance? It was the first, and I believe the only one.

1141. Chairman.] Would you say that a copy of the shortband-writer's notes was refused?

No; but the charges would be very expensive for taking the evidence; they would be 8 d. or 9 d. a folio of a certain number of words.

1142. Supposing it should be hereafter material, at the commencement of the new judicial period or otherwise, to ascertain what cridence was given about improvements at the present time, is there any material for keeping a record of that cridence?

None; the notes of the Sub-Commission would not be sufficiently full. They appear to take very full notes, such as may be taken at nisi prise, but considering the number of parties and the nature of the holdings, they would have to remind themselves of many material things not upon the notes.

1143. I suppose none of the members of a Sub-Commission are in the habit of taking notes of evidence, except the legal Commissioner; Except the legal Commissioner, no one takes notes of matters of law, and I

should say that their notes of the evidence were not by any means full in the sense that they would afterwards be useful as records.

1144. Lord Tyrons.] Would those notes he any use at the end of 15 years

as a proof of improvements?
Of no use.

1145. Do not you consider it absolutely necessary that some record should be kept for the purpose of future decisions?
Absolutely necessary. Take, for instance, the specified value of a holding,

the control of the co

1146. Chairman.] Might it not be in the tenant's interest to keep a record of bis improvements; that is to say, suppose a Sub-Commission were to arrive at the conclusion that a tenant's improvements were worth, say, 20. a year, but that, on the other band, the land had been deteriorated to the extent (0.1.)

of 5 l. a year, so that setting one against the other, the interest of the tenant would be only about 15 % a year; would it not be material at a subsequent time when the deterioration had been done away with, or had been made good. for the tenant's sake, to be able to show that putting deterioration out of the question, his interest was worth 20 L a year?

It is even more material for the tenant thau for the landlord to have a record of his estate and holding.

1147. Why do you think so?

Because before the Act of 1870 the entire premises demised were the property of the landlord. The Act of 1870, and now the Act of 1881, confers a property on the tenant in the landlord's freehold; and it is more material for the tenant to have evidence of how much of the freehold helongs to him is that peculiar way, than it is to the landlord. It would be an important matter to the tenant if he were selling his interest.

1148. You mean that now the Sub-Commission adjudicate that certain improvements in the property are the property of the tenant, and unless there is some record of that, it strikes me that all that may he opened as against the tenant at the end of 15 years?

It might he to his injury.

1140. The landlord might then say, " I have nothing to say as to what took place 15 years ago, and I have no record of it "?

A great danger might arise to the tenant from the want of that record. 1150. Earl of Pembroke and Montgomery. Do you think there would be any difficulty in registering the improvements both of the landlord and the

tenant 3 The Act of 1870 gave power for registering the improvements both of the

landlord and of the tenant (Section 6). 1151. But now a new power would be required to make such registration

compulsory when the rents were fixed, would it not? It would be an extremely convenient thing when the matter is adjudicated in court, to have a record kept of the tenant claiming the improvements, and the

landlord disputing them, and the Court deciding on them; that would be a valuable record, easily supplied, and at no additional cost. 1152. Chairman. Would the result be sufficiently arrived at by finding that

the value of the tenant's improvements upon the holding was so much, without specifying in detail what the improvements were? It would not, in my opinion, for this reason, that improvements are often

divisible. The landlord has often supplied the materials for the house, and the tenant has erected it. In fact, the value of various improvements is often divisible; the landlord has sometimes done part of it, and the tenant has done part of it; and the value of the improvement has been apportioned between them.

1:53. Earl of Pembroke and Montgomery.] Is it not often the case that there are improvements which are permanent, and others which are not permanent, upon each of which the tenant founds his claim for a reduction of rent? No doubt that is so.

1154. Marquess of Abercorn.] Is it not the case that there are also some improvements alleged to be made by the tenant in the shape of fences, which are very often not improvements at all?

Most unquestionably. As regards fences, the plough must stop within some feet of the fence on either side, and the acreage of most of the fields is so small that very often the fences are no improvement at all. Stone walls are very much claimed for as part of the reclamation of rocky land; the tenant

has taken up stones, and then used them in the hest way he can as fences. 1155. Earl Stanhope.] The fences are generally stone walls, are they not? No, a fence is ordinarily a ditch and a hedge, and the ditch serves to a certain extent the purpose of drainage.

14th March 1882.] Mr. OVEREND. Continued. 1156. Chairman.] There are particular districts in the country where the

feoces are more usually stone walls, are there not? I believe in Galway that is the case.

1157. Lord Tyrone.] But you say that fences have not been taken as an improvement by the Sub-Commission?

As a rule, the tenant has failed to show that they were beneficial, 1158. Lord Carysfort.] Has the tenant ever claimed for removing fences?

Yes, when he shows that he has established an improvement, then he gets credit for it. 1150. Marquess of Salisbury. If in doing so he were to obliterate a ditch

which had formerly served for drainage, would that be admitted as counter evidence against his claim? It would.

1160. Chairman.] Was anything decided in the Dunseath case about setting off deteriorations against improvements No, except as a matter of inference; but that is a material reduction, which the landlord will henceforth he entitled to hy a clause in the Act of 1870.

1161. It is by the introduction of the provisions of the Act of 1870, that that

will be brought about? Yes; heretofore there was no substantial allowance given for deterioration,

because nothing but improvements was taken into account. 1162. Was not there a general clause in the Act of 1881, which was supposed

to be large enough to cover deterioration? It related to the unreasonable conduct of a tenant then in court; but that would not apply to his predecessors, as defined by the Statute; I presume your

Lordship refers to Section 9-1163. Marquess of Salisbury.] Then, do you mean to say that no proof of deterioration would act in reduction of a claim for improvements : That has not been heretofore allowed.

1164. It has been refused, has it not?

It has been refused; and, as a matter of fact, if the tenant had been rented upon the land in the condition in which it ought to have been with ordinary care, he could not have paid the rent in the present state of the holding as found by the Sub-Commissioners.

1165. The Sub-Commissioners have taken no notice of the fact that it was due to his own fault that the land was in that condition?

If the tenant himself had done something prejudicial, they might have dealt with it under the head of unreasonable conduct; but if it had been done by his predecessor, as, for example, if the land had been burnt, which is a common practice, and the traces of hurnt land last for even a century, in the opinion of experienced valuators, they could deal with that in no way; they must deal with the

land in its exhausted state. 1166. Lord Tyrone. Is there not a very stringent law against huming land? Yes, but still the Sub-Commission which sat in Fermanngh for six weeks found burning everywhere.

1167. Had that been dooe lately?

The traces were very distinct.

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1168. Marquess of Abercorn.] But the burning might have taken place 40 years The traces would still remain distinct in that case.

1160. Lord Tyrone And yet the Sub-Commissioners reduced the rents in Necessarily, prior to the High Court of Appeal deciding the case of Adams and

Donseath. 1170. Marquess 03 (0.1.)

1170. Marquess of Salisbury.] What clause of the Act of 1870 do you consider is introduced by the appeal case of Adams and Dunseath, which would relate to

this matter ? The Act of 1870, Section 4, provise 5, provides that "Out of any moneys pay, able to the tenant under this section, all sums due to the laudlord from the

tenant or his predecessors in title in respect of rent, or in respect of any deterioration of the holding arising from non-observance on the part of the tenant of any express or implied covenant or agreement, may be deducted by the landlord."

1171. Do you hold that the Dunseath case has introduced Section 4 bodily into the Act of 1881?

I have no doubt of it; that construction of the decision will, of course, be resisted. 1172. They will probably go to the Court of Appenl again with the

case ? Hardly, becase the Court of Appeal has already expressed its opinion.

1173. Earl of Pembroke and Montgomery. Has there been any case known of a Sub-Commission refusing to fix a fair rent on account of the condition in which the farm was?

No. I should think not. There does not appear to be any power in the Court to dismiss a case by reason of the bad condition of the farm,

11"4. When the Bill was passing we were told that they would have the power to de so under the Equities Clause? If the Equities Clause extended to the predecessor of the tenant, that might

be so; but the clause says, "the unreasonable conduct of the tenant," and the "tenant," as defined by the statute, does not include the predecessor of the tenant.

1175. Marquess of Salisbury.] Do I understand that the Dunseath decision has incorporated Section 4 of the Act of 1870, without reference to the circumstance, that it applies to tenants quitting their boldings?

I had better resd the Muster of the Rolls' judgment upon that point. He distinctly states that the first portion of Section 8, commanding the Commissioners to have regard to the interests of the landlord and the tenant respectively, can only mean, since they are compelled to construe the two statutes together. that it is the amount of compensation which the tenant would get on quitting the holding that has to be ascertained; and having ascertained that, the deduction from the letting value is to be in respect of the improvements so discovered. And he himself takes, as an illustration, the case of a tenant expending 500 L, and being awarded 400 L; then he says, the true measure of the tenants' interest in the land is the sum so awarded, viz., 400 %. And he puts the case of the clause of the Act of 1870, which provided that if the compensation, when awarded, should not be paid to the tenant, he could hold on as tenant; and, assuming, he said, that he is awarded 400 L, after deductions in respect of 500 L expended in improvements, and the landlord is unable to pay that 400 L, then the tenant continues tenant, and cannot be compelled to quit; and he could then serve an originating notice to fix a fair rent, and the Master of the Rolls puts the point thus; he says, How could it be contended that the interest of the tenant is not 400 s, and no more.

1176. Then it is those words, "having regard to the interest of the laudlord and tenant respectively," which have been mainly operative in respect to those decisions?

Yes, those are very important words.

1177. Chairman.] In the proceedings before Sub-Commission No. 12, were there any cases in which the existing rent was maintained? Several. In four cases of the Earl of Erne the existing rents were maintained, and in a case of Sir Victor Brooke the existing rent was maintained; those were isolated cases upon their estates.

1178. Have

14th March 1882.] Mr. Ovenend.

1178. Have you any knowledge of how those cases happened to be hrought into Court.
The cases upon the Earl of Rrne's estate were ordinary cases brought in the

the cases upon the fair of arms a state were ordinary cases brought in the regular way into Court, but the case on Sir Victor Brooke's estate was a Land League test case.

1170. How do you know that?

From the identity of the practical plaintiff with the Laud League movement.

1180. Marquess of Salisbury.] They selected cases where the rent was likely to be maintained, did they not? I saw three or four distinct Land League cases, and in meanly every instance

the rent was either affirmed or increased, and I have no doubt they were selected in had faith.

1181. Viscount Hutchinson.] The evidence led you to that conclusion, I presume?

In a case decided at Managhan hat week, the name of the solition of the Land League was on the originating notice; the transat shib the did not know that the did not know the land Land League was one three did not the case, and at the termination of the tenant's own entirese had held also in question as to the whee, it had also that the contract of the case, and at the termination of the tenant's own entirese had held also in question at the whee, it had also the contract of the did not the contract of th

115c. Viscoust Hudelines. What was the result in Sir Vistor Brooks's case by Ta Sir Vistor Brooks's case the run was affirmed. These were also two to markable land cases tried at Bellesk; in three out of six evisted cases the rest was affirmed, and in two of flowes diffusions where the resis were extremely suffered to the control of t

1183. Lord Tyrone.] What was the reason that the Land League selected those cases?

I believe to discredit the Act of Parliament, as showing that there would be no reduction made, and to have two sensational evictions.

1184. Earl of Pembroke and Montgomery.] Do you know in your experience of this fixing of fair rents in Court, whether the Commissioners ever inquire at all into what the holding is worth in the open market; that is to say, what the

competition rent of the holding is; is that a question commonly asked?

No, it is a question regarded by the practice of the Court as not really very material.

1185. Duke of Norfelk.] Then what a landlord could get is not supposed to affect the question of what he does get at all?

No, because it is supposed that he could get much more than the rent by open competition.

1186. That does not come into the question?
It does not; that is spoken of as the "hunger of land."

(0.1.) O 4 1187. Marquess

14th March 1882.7 Mr. OVEREND. Continued.

1187. Marquess of Abercorn.] The commercial value is left out of the question? What it would bring as the commercial value is not considered.

1188. Lord Tyrone. I wish to ask you what has been the difference between the effect of the decisions of the Chief Commissioners and the Sub-Commissioners upon the rental?

The Chief Commissioners, during the 40 cases which they heard from Suh-Commission No. 2, fixed 24 fair rents, and the residue of the 40 cases were disposed of in this way : seven cases were duplicate appeals, in which both the landlord and the tenant had served notice; one case was settled out of Court; four dismissals were affirmed, and in four cases the service of the notices which had been declared bad by the Sub-Commission, was declared good by the Chief Commission, and they were referred back. Twenty-four fair rents only were fixed by the Chief Commissioners; one case appealed from resulted in a reduction from the judicial rent of 24 l. 0 s. 9 d. to 22 l. Seven were increases of the judicial reuts appealed from, and the rest were affirmances. The net result was, that the old rents were 7281. 16s. 6d.; the rents appealed from were 557 l. 19 s. 6 d., and the judicial rents fixed by the Court of Appeal were 571 l. 5 s. 9 d.; the difference, though only 13 l. 9 s. 11 d., was nearly 2 per cent, upon the rental decided. The deductions were mitigated by about 2 per cent. of the rental, but the principles were the same.

1189. Did not great inconvenience arise from not hearing the appeals

sooner? Had the Chief Commissioners sat and heard the first cases in Belfast, all the matters of law which have now been decided would have arisen, and could have been decided by the High Court in November 1881, and the Sub-Commis-

sioners would have pursued the decisions so laid down.

1190. With regard to the particulars not being given, what are the principal evils that result from the want of particulars?

The landlord going into Court hears, for the first time, the particulars of the improvements which the tenant claims, and the evideoce with respect to the time; and he hesrs also, for the first time, evidence as to their value. Neither he nor his valuator, when they were upon the land, had an opportunity, exactly, of knowing how to value the holding; and then, when they are in Court, his valuator's evidence is never correct, and it has to be discounted by the circumstances which are proved. Neither can the landlord prove payment or compensation if it is made by his predecessor. On the spur of the moment it is impossible, and in the case of a Landed Estates' Court conveyance it is always impossible for him to prove payment by his predecessor, when he, for the first time, hears the point brought forward.

1191. Do the Sub-Commissioners take into consideration the value of the produce in fixing the rents? That question is frequently asked; and in the Court of Appeal at Belfast a

Belfast showed an increase.

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schedule of prices during the last 31 years of the principal produce in Belfast was actually proved; but in the couotry there is no record, and no means of knowing what the prices were. The tenant says he thicks they were cheaper or dearer in particular years; but we have no means of ascertaining that, 1192. Chairman.] Would it not be known at the nearest market town what

the prices had heen?

There is no record; but the system of valuation in Ireland does not appear to he based upon the question either of what the holding will bring in the market, or upon the question of the cost of producing the crops, and the profit made out of them.

1193. Was Griffith's valuation not supposed to be based upon the price of produce? That is so; and if the price of produce were pursued as a guiding element,

it ought to result in an increase of the rent, because the list that was proved in

14th Moreh 1882.7 Mr. OVEREND.

1:94. Marquess of Abercorn. | Then the tenant would meet that hy alleging an increase in the price of labour?

Yes, that is an important matter; the price of labour has risen to a material extent, but even so, the arithmetic would still be in favour of the landlord. It is only a roundabout way of arriving at the commercial value.

1195. Duke of Marlborough.] In the case of a professional valuator, upon what grounds would be go in assessing the value?

The professional valuators were trained prior to the Act of 1870, and have doctrines of their own; they at first insisted upon pursuing the principles they pursued prior to that Act, and that was a great source of embarrassment to the

landlord. Mr. Edmund Murphy, who is an eminent valuator, and Mr. M'Bride, who is also an eminent valuator, sav, "We credit the tenant with the tenant right; we know what is the tenant-right of the district, and we are fixing the rent, having that in our mind"; they do not mean to say that they credit the tenant with the whole selling value of his tenant right, but they allow something for the tenant-right, and certainly enough to keep his improvements exempt from rent. In this way they avoid going into the details of the improvements when valuing. 1196. But in arriving at the original value before they make a deduction for

tenant-right, upon what grounds are they supposed to proceed?

They appear to have worked it out in a manner of their own. None of the scientific valuators now appear to know the prices of produce; they were educated in some way with regard to the value of land, and they became very good judges at sight, of the value of an acre of land, and it is by sight upon the land that they put down the value of the holding; they do not go into the question of the produce at all, except in very special cases.

1107. Marquess of Salisbury. But if the land is wheat land, and the price of wheat has fallen half its value, do the valuators do it still in the same way? They still do it in the manner I have stated, but would make some allowance

for such a fall in price. 1198. Duke of Marlborough. Do they take into account special circumstances; such as the competition for land or the nearness of the holding to a

town or a railway? In every instance, town influence is a very material thing, and we have used the instruction in Court which Sir Richard Griffith laid down for his valuators, in which he shows that if land is situated so many miles from a town of so many

inhabitants, the rent ought to be increased in a certain ratio; and we do in fact get credit for town influence. 1 199. Lord Torone. As regard these valuators, I think they have lately been

very difficult to procure? They are very difficult to get. 1200. And have they not throughout been the great difficulty in the cases

of the lundlords?

A very important difference of practice arises in that respect. Sub-Com-mission No. 2 held the landlord bound by his valuator, and the rents were never bigher than the valuator had named; but Sub-Commission No. 12 were rather more liberal than that, and have once or twice fixed the rent higher than the valuator of the landlord put it, where there was a miscarriage, or it

was clear that something should be added to his figures in consequence of an 1201. That shows that the different Sub-Commissions throughout Ireland, upon some matters, proceed upon different lines? In that respect they do.

1202. But in other respects do they not? I could only compare the two Sub-Commissions, No. 2 and No. 12.

error in his principles.

1203. Could you say whether the manner in which the judicial rent is arrived at, not being communicated to the landlord or the tenant, is a great difficulty in

the way of making settlements out of Court? (0.1.)

114 Mr. OVEREND. Continued.

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It is a great difficulty, because at the end of the sitting, say six or seven cases of the laudlords have come on and are heard; if we knew exactly the principles upon which those six or seven cases were decided, it would enable the landlord to regulate the rents apon the rest of the estate without going into Court at all; but the only means now of settling with the other tenants is to offer them the

same per-centage of reduction that the first six or seven have obtained. 1204. Is that one of the great reasons of the block in Court?

There does not seem to be any means of avoiding the hearing of all cases before the Court, as long as it is not known why the rent has been reduced from the letting to the judicial value. The form of decree given by the Act of 1870 compels a judge of the county court, and a judge of assize upon appeal to adjudicate upon each item, and show how the Court arrived at its decision upon the improvements.

1205. What would you suggest to obviate that uncertainty?

I think the Court should be compelled first to ascertain the letting value, and having ascertained the letting value, should work out the value of the tenant's interest, in his improvements as required by the Act of 1870; and baving arrived at the tenant's interest, giving the landlord credit for each item he would be entitled to under the Act of 1870, then the annual value of the tenants interest in his improvement should be deducted from the letting value to prrive at the judicial rent.

1206. You said just now that the record would be a valuable document for the purpose of proving the title of the tenant; it is quite possible that a farm may change hands several times during the next 15 years, and the tenant claiming to have his rent fixed at the end of 15 years might know very little

about what his predecessor in title had done? He would not know, and an important question arises in that respect; there is now free sale under the statute, and there will be a very large number of enforced sales by creditors, grocers, and others, of the tenant's interest; the tenancy will be an article freely saleable from heuceforth; and of course every purchaser under those circumstances would know nothing of the tenant's property

in the land, it being unrecorded and never adjudicated upon. 1207. In any case that you are more particularly aware of, has the rent been reduced in consequence of the deterioration which has been proved by the land-

lord, of the holding by the tenant or his predecessor in title? The cause of the deterioration has not always been very clear as in the case of burning, and the holding is generally valued as it stands, whether deteriorated or not, and the improvements are deducted.

1208. There are other causes of deterioration, are there not?

Yes; farming without manure, for example; but the Commissioners have not stated how they have arrived at their conclusions. The same thing was done with regard to deterioration as was done with regard to improvements; you do not know how it is arrived at, or whether it was at all considered by the Court in reduction of the tenants claim for improvements.

1209. Have the valuators who value for the Chief Commissioners any information of the claims made with reference to improvements by either landlords or tenants? None.

1210. Is not that a serious difficulty? It was stated by the witnesses on the appeals in Belfast, that the Court valuators did not ask any questions of any persons upon the land, and they had no information whatever that we could ascertain as to improvements in going

upon the land, unless it may be that they had private reference to the notes of the Sub-Commissioners. How that may be I do not know. 1211. What record do you think it would be necessary, in your view, as representing the landlords, for them to keep?

I think the Court valuator should say, "the letting value of this holding in its present present state is so much; I find so many improvements for which I put down so much, and I find the farm deteriorated by hurning, for which I deduct so much; if it had not been for the burning, I would have considered the fair rent so much," and so on in detail according to the circumstances.

1212. Chairman.] But in going before the Chief Commissioners, how would the valuator know what improvements were to be attributed to the tenant and what not?

That is the difficulty, that the particulars are not given. If he valued

them separately they could be struck out separately at the hearing.

1213. Your view is that the Commissioners might then hear evidence as to

1213-1 out view it time the commissioners' might then hear cridence as to whether a tenant was his to prove this be his declardy made the improvements? Yes, and then credit either party. It has been the predicts in Ulster never to the contract of the contract of the contract of the contract of the in and sary, We have not valued the buildings; it turns out upon the evidence that the buildings are the landbord's, and then a sum is arrived at for them and added, and the Court valuer should to that for himself.

1214. Lord Tyrone.] How do these valuers of the Chief Commissioners know the acreage of the farms? They would have the originating notice, and perhaps there may be some

They would have the originating notice, and perhaps there may be some means of finding out what the Sub-Commissioners decided to have been the acreage.

1215. That is not necessary according to what you have told us. I referred to the correct acreage?

I cannot tell what returns are sent up from the Suh to the Chief Commissioners, or whether the Court valuers have taken the acreage from the originating notice, or from a return showing an amended acreage.

1216. Chairman.] Do you know whether they value per acre, or whether they value the whole of the holding? I have no idea.

1217. Lord Tyrons.] Do you know who would have pointed out to the Commissioners the extent of the holding?

The tenant or the landlord, who is the appellant under the appeal, lodges in

the Court a piece of a map coloured, and that is taken by the valuator.

1218. Would not the other parties to the suit he able to lodge other evidence

to the same effect?

There would be no contest about the houndaries of farms ordinarily.

1219. Duke of Marlborough.] It is not the practice of the Chief Commissioners themselves, is it, to state the grounds upon which they arrive at their decision as to the value of the land?

They do not, save so far as it is embodied in the printed judgment; they do not go into each specified improvement, but Mr. Litton stated that he gave all the improved letting value consequent upon the improvement works to the tenant.

1320. Do they so far so into a statement of the grounds upon which they

1220. Do they so far go into a statement of the grounds upon which they arrive at the letting value as to render it certain that the principles followed in the Dunseath Appeal Case would be followed by them?

No. they do not enter any details or items.

1220*. In fact there is no security that we know of that the principles had down by the Dunasath Appeal will be followed by the Land Commission in arriving at their judicial rent? Save their high character.

1221. Save their own fidelity?

Save their own fidelity.

1222. Lord Brabesense.] Do the Sub-Commissioners give the grounds of their decision as to what the rent should be? Never.

(0.1.) P 2 1223. Do

Continued.

14th March 1882.7 Mr. OVEBEND.

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1223. Do not they state what proportion of the rent they deduct on account of improvements, and not on account of deterioration?

No: as a rule it is stated that all the improvements are the tenants, and as a rule a large number of the improvements have been made by the tenants.

1224. Does not that leave the landlord in doubt as to whether there is ground for appeal, or not ? He, of course, remains in doubt: I have here a copy of an order of a Sub-Commission fixing a fair rent.

1225. Chairman.] You mean of the form of order in each case?

It would appear to be so, because it is printed by the Court,

1226. Marquess of Salisbury.] Do they give a judgment accompanying that order? They do : it is in very few words. They say : having regard to the situation

and to a railway being near this place, and to all the circumstances, and to the fact that the landlord has admitted the buildings, or that the tenant has made improvements, we say that the fair rent should be so much.

1227. At starting they used to be more communicative, did they not? Several of the Sub-Commissioners were.

1228. Do you know at all why they have ceased to give judgment upon the same extended scale?

Owing to the difficulties of the problem. 1229. You are not aware of any admonition reaching them from high

quarters ? I am not; but everything said by the Sub-Commission was so criticised that

that no doubt led to greater caution. 1230. You have no ground for believing that the greater reticence of the Commissioners when they are delivering their judgments arises from a special

admonition on the part of the Chief Commissioners? None; I believe the Sub-Commissioners were left independent.

1231. And that they have not been restrained from giving particulars of the grounds of their judgment by orders from head quarters? On the contrary, I believe that the Chief Commissioners issued to the Sob-Commission a form setting out the value of the tenants' improvements, and that the Sub-Commissioners resisted the filling of it up, and did not fill it up.

1232. Lord Brabourne.] Is there any difficulty in the filling of it up on the part of the Sub-Commissioners ?

Yes, there is a great difficulty by reason of the fact that the Sub-Commissioners themselves are embarrassed for the want of the particulars of the improvements, and they cannot be fairly expected to sit down and write out a schedule of them with the value in detail, unless they are furnished with each item of them beforehand,

1233. Chairman. You say that the Commissioners issued in the first instance a form to the Sub-Commissioners, upon which the Sub-Commissioners were required to state the value of the tenants' improvements; and you say the Sub-Commissioners did not do that. Now, when the case comes before the Commissioners themselves, do they specify tenants' improvements?

1234. So that they do not obey their own order? I thick it was hardly just to the Sub-Commissioners to ask them to adjudicate upon the improvements, first having themselves to construct the record, and

then to decide those cases before them. Had the Sub-Commissioners a record of what was claimed by the landlord, and what was claimed by the tenant, it would have been an easy matter for them to have done it, but that was not required of the litigants by the Chief Commissioners.

1235. Earl Stankope.] It would be impossible for the tenants to register their improvements, because they were out ascertained by the Sub-Commission; take, for instance, the period of 15 years bence? Λt

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At the end of 15 years we would begin again; that would be a new matter,

and no henefit would have been received from the preceding decision. 1236. Chairman. Neither the Sub-Commissioners nor the Commissioners

have, as I understand, fixed the rent at so much an acre, but at a gross sum; is that so?

They have never fixed the rent at so much an acre, but always at a gross sum-1237. Viscount Hutchisson.] But the evidence in the cases is very often

given, in fact in almost every case, that the land is worth so much an acre? That is the way the evidence is given. The skilled valuators go into detail, and say that there are three or four fields containing so many acres, which they estimate to be worth 40 s. an acre, and so many fields containing so many acres worth 30 s., then they tot the entire amount up, and say that the whole makes an average rate per acre of so much. In this particular order before me, I find that the area which is stated in the notice to be 24 a. 1 r. 6 p. is marked "correct area, 15 a. 3 r. 19 p.;" it is a mere accident that I have this order, but still the alteration in the area there was from 24 to 15 acres.

1238. Chairman.] I do not quite yet see, and shall be glad if you will explain a 1138. Chairman it was the difference in the acreage appears to you to have necessarily affected the judgment, when the judgment always is for a gross sum? What has been found in practice the most valuable evidence for a Sub-

Commission is the evidence of a valuator, who knowing the true acreage in the whole, takes the Ordnance map, and with the scale estimates that each field contains about so much, and then fills up, Field No. 1, 20 s. an acre ; Field No. 2, 25 s. an acre, and so on throughout, and then tots it up. That has been found by far the most valuable evidence for the Sub-Commissioners; they go upon the land, and at once look at No. 1, and they say, the valuator has put 20 s. upon this, and the tenant's valuator has put 10 s. They then consider, I suppose, how long the rent has been paid, and the other circumstances of the holding, and usually come nearer the landlord's valuator than the tenant's valuator.

1239. Still, when it results in a gross sum fixed for the whole holding, would it be certain that the acreage affected the question?

Necessarily, because they make up a calculation of so much au acre before they arrive at the gross sum, and it is no doubt by the fields containing the specified acreage, that they go. Now the holdings in Ireland are very diverse, because each tenant likes to lawe a piece of hog attached to his farm, a piece of meadow attached to his farm, and a piece of meadow attached to his farm, and a piece of meadow attached to his farm, and a piece of meadow attached to his farm, and a piece of meadow attached to his farm, and a piece of meadow attached to his farm, and a piece of meadow attached to his farm. ingly it is almost necessary to place a velue upon the bog, the meadow, and the arable land. So they ought to know the correct area of each, and also they should know the correct area under county roads and absolute waste; and if there is an error in their estimate by over-estimating the quantity contained in the hog or in the other parts, injustice is necessarily wrought to the landlord and tenant; so that to arrive at the true area of each quality of land in the holding is almost a condition precedent to doing justice in the case.

1240. Chairman.] Supposing the landlord's valuator said, I value this field at so much an acre, and I consider there are nine acres in it, and the tenant's valuator happened to say, I value it at the same amount per acre, but I only make it seven acres, how does the Court settle in that case?

I do not know what they could do in that case, except to rely upon the witness whom they thought to be the more accurate of the two.

1241. Marquess of Abercorn.] I think you stated that the tenant usually had a chain survey? Only when he wishes to amend the originating notice by reducing the area

first stated by him. 1242. Duke of Marlborough.] When they seerile an area to a particular farm, and that is different from the area which the farm had been assumed at

the outset to consist of, do they announce the principle upon which they arrive at that difference in area? That is done openly before us in Court; very often at the end of an argument they will say, shall we divide the difference; and very often the landlord's

(0.1.)

Mr. OVEREND. Continued. 14th March 1882.7 valuator who has valued upon the larger area is asked what is his area, and then

the difference is struck off his valuation. 1243. Lord Carysfort. Are you aware that Sir Richard Griffith divided the

lands into lots, and that those lots were marked on the Ordnance map? Yes.

1244. I suppose each of those lots was smaller than the fields? I should think not; I should think the field was considered.

1245. Are you aware that those lots were accurately measured by Sir Richard Griffith and his assistants? I believe they were, but constant changes are taking place in Ireland by subdivision and barter between the parties, and by the good nature of agents fre-

quently in permitting the tenunt to change between one piece and another. 1246. If anybody had such a map as I describe, which I believe is in existence,

could they not very easily ascertain the exact area of a farm? That would be of the greatest materiality; it would only he liable to the error of scaling it off.

1247. But there is a book connected with it which does contain the area of each lot?

I think your Lordship is referring to the Poor Law Valuation Books, but those deal with holdings. If such a map as your Lordship mentions exists, it would be of great service to the public to know it.

1248. Earl of Pembroke and Montgomery. Is it not the case that the valuations on the part of the landlord have not unfrequently been below the existing

rent? The landlord's valuators were frequently below the existing rent; I should rather say that the valuators at first employed by the landlords were below the existing rent, but there are many other valuators of equal respectability who come

nearer to the rents. 1249. But I suppose that even in these days when valuators are employed by

the landlord, there is not much tendency to overvalue the land; the tendency is rather the other way, to depreciate it, is it not? If I may use the term, the Court opened under a sort of panic, and the valuators I have no doubt were influenced by being upon the holdings. There was great feeling manifested in the country by the people and great excite-

ment, and I have no doubt at all that the valuator was better satisfied when he left the land if he put a low valuation upon it; that is to say, he was not uneasy about going hack again. 1250. Marquess of Salisbury.] Did he belong to the district?

If he did not belong to the district he would he open to the observation that he knew nothing about the locality.

1251. If he did belong to the district he was probably open to the hostile demonstrations of the tenants? It depended upon the man; some of the men have been men of great

courage and determination. Skilled valuators have come best out of the

1252. Lord Tyroxc.] Have you ever come across any statements made by those valuators, of their reasons for fixing their valuations so low? The first condition that a respectable valuator insists upon is that he shall

be unfettered and uncontrolled in his valuation, and therefore he goes upon the land and comes back, and, as often as not, we do not know his valuation until he is called. The landlord is embarrassed in this way; that having sent a person upon the land, if he does not call him, the worst is presumed against him, and

if he does call him, the Sub-Commissioners hold him hound by that valuation. 1253. Chairman.] Does not the valuator inform those who employ him, of the result of his valuation? Ordinarily there is not time; he is frequently making it up in an adjoining

1254. Lord

room while the case is proceeding.

14th March 1882.] Mr. OVEREND. [Continued. 1254. Lord Tyrone.] Do you think that the Suh-Commission would be more

likely to take his calculation if it were nearer their own valuation, and that that would have any effect in leading him to put it lower than the real fair value?

As to that I would say this: Mr. Edmund Murphy, who has been a very able valuer for the Government under the Lands Clauses Act for many years, was called by many landlords, and did, in fact, assess a fair rent as an arbitrator, and yet his valuations were discounted by the Sub-Commissioners, for saving that he considered the tenant was recouped for drainage and fences, and things of that sort, after a certain number of years, and that he regarded it in this way, that having had the henefit of them for 21 years, the tenant ought not to be allowed anything more for them. That was regarded as a violation of Healy's clause, and his valuations were discounted accordingly, which became very embarrassing to the landlords.

1255. Did not some of the valuators put their valuations low in the hope that the Commissioners would accept them rather than the tenants' valuations? Not valuators of the high character of Mr. Murphy.

1256. Chairman. What did you mean by saying that he was making his valuation up while the case was going on; I suppose he would have been upon

the ground before the trial? Yes; and he would have taken a map with him, and said, this field is worth so much; but then he would have to scale out the area of the fields, and make

up the sum which each would come to at the rate placed on it. 1257. Would be have to hear the evidence as to the measurement?

No, but he would have to use his scale to show how the total in the originating notice was distributed over the various fields; and then he would have to work out so many acres at so many varying figures. That was an elaborate calculation, which occupied a considerable time after the valuator had been in the fields the whole day, and those Returns were often not ready for us until the tenant's case was actually in Court, and as often as not be would be upon the land while the tenant's case was being heard.

1258. Was there any difficulty in getting valuations?

None where we were. I do not think I would be answering correctly the question which the Earl of Pembroks asked me a few minutes ago, unless I said that Mr. Murphy and Mr. M'Bride did frequently reduce the rents when they were before the Courts.

1250. Lord Penzauce.] You mean that they reduced the existing rents? Yes, they reduced the existing rents.

1260. Duke of Norfolk. Had any of the valuators had to act under the pressure of threats and hostile demonstrations, or anything of that kind?

That would apply, I have no doubt, to the western and southern parts of Ireland, but in Ulster it does not apply; it exists to some extent, but nothing like personal violence would be offered to a valuator.

1261. Chairman.] When these valuators go npon the land, what do they do about improvements?

Mr. Murphy's principles, as far as counsel could collect them in Court, were, to assume that he was valuing a tenant-right holding.

1262. In Ulster

Yes, and that therefore the tenant had an interest made up both of improve ments and goodwill; they put a reasonable rent upon that, leaving the tenant something which was saleable still, an average saleable interest. Then he also excluded the huildings, and made a substantial allowance upon each field for reclamation as the tenant might tell him.

1263. He took his word for it?

He took his word for it, subject to its heing discounted in Court. The reverse way would have been better, namely, to take the letting value and let the letting value be reduced in Court; but Mr. Murphy brought it down to the lowest point, and allowed it to be added to by the landlord proving buildings, or otherwise. 126A. Marquess (0.1.)

14th March 1882.] Mr. Ovenenn. [Continued.

1264. Marquess of Saliebsry.] I think you mentioned that of the first Suh-Commission you appeared before, Mr. Greer was the Chairman? Yes.

1265. He is a solicitor, is he not?

He is a solicitor in large practice.

#266. He is not alone, I think; he heloogs to a firm, does he not?
Messrs. Greer & Mullen.

1267. Have they been in practice before the Land Courts?

Certainly not Mr. Greer.

1268. But Mr. Mullen?

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Mr. Mullen has been in practice before the Courts for both tenants and land-lords,

1269. But he has been in practice? Yes, he has.

1270. Earl of Pessbroke and Montgomery.] I understood from what you stated just now that in valuing land valuators like Mr. Murphy entirely disregard the injunction which is contained in the Act of 1881, that they are not to take payments for words ill into consideration?

I am only giving secondary evidence of Mr. Murphy's principles; I am merely showing hat he was a valuator of a most liberal kind, and acted as a sort of arhitrator, and that there was no margin to he discounted aff his

valuations.

1271. Is it the case that in adjudicating upon valuations in Ulster, the Courts disregard the injunction in the Act, and take into account sums paid for

goodwill?

The question has often turned up, and it works oftener in favour of the landlord than the tenant, because it will often turn out that the tenant has paid for the farm in the preceding year, or wo or three years ago 30,1 or 30.1 and Irish acree to purchess the tenancial functest it the critique ran and the included uses that the critique rand to the contract of the critique rand to set with vers not a fair rent when he taid so much for the farm at the rent.

1272. Chairman.] But the question of the noble Lord was whether you knew the Court took into consideration the sums paid by the tenaot either against the tenant or seainst the lundlord?

It has arisen in a great many instances, and I helieve will form the basis of an aplitation against the construction of the Statute, because the insidiled has been in the habit of contending that there ought to be no difference between the month of Ireland and the count of Friends it assessing a judicial vera, and that the country of the state of the sta

1273. Earl of Pembroke and Montgomery.] You are not aware, perhaps, in what way that point has been decided by the Sub-Commissioners?

I can give you direct evidence upon that point; it was discussed in every town in the first circuit of Sub-Commission No. 2, and the Court declined to peigle third fo any opinion until we arrived at Newry, having losen five weeks out. In the contrast of the contrast of

1274. Marquess of Abercorn.] Is it not the case that the price of tenant-right does not depend upon improvements; that a farm in the worst possible state will sell for just as much for tenant-right as the best farms?

a for just as much for tenant-right as the best farms?

Even if there are no improvements the tenant from year to year can sell the tenant from year to year.

14th March 1862.7 Mr. Overven

Continued.

tenant right at a high figure, and the effect of the Act of 1881 on tenant right will be this, that where it has been very high, as upon the Marquess of Londonderry's estate, where it has gone to the incredible extent of 50 % or even 60 L an Irish acre paid for the tenant interest; the value of the tenant right will be lowered; and in Monarhan and other counties, where it has been as as low as from 5 l, to 10 l, an acre, the value of the tennat right will be increased. The difference was partly improvements and partly rent, but largely owing to the desire to buy into an estate that was managed upon very liberal principles; and now the statute having levelled all distinctions as to management, no doubt the tenant right will come down upon those very good estates, as it certainly has gone up, to my knowledge, upon inferior estates, because the Act has established an equality as to landlords.

1275. Chairman.] With regard to labourers' cottages; in the cases you have been concerned in, have there been orders made with regard to labourers' cottages at all? A good many.

1976. What is the form of the order generally?

At first the order was that the tenant do erect, or do improve a cottage, and

that he give a half acre of land with it, at 1 s. a week, to the labourer. It was then suggested to the Court, that as the only method of enforcing the order was by a very costly proceeding, namely, an attachment obtained in Dublin, upon a motion ordering the tenant to do it, a date ought to be specified within which the cottage should be put up, so that on a given date there would be a brench; but even that would put the labourer to the expense of a motion.

1277. If there were a breach, what would happen? If he had any person sufficiently interested to take it up for him the labourer would make a motion for an attachment against the tenant to compel him to obey the order.

1278. But is the order that the tenant put up a cottage for labourer, A. B.?

That I do not know.

1270. Because, if it is to put up a cottage generally for a lahourer, or for so many inhourers upon the estate, who would enforce it?

The Order is practically incapable of enforcement as it stands at present, but I think a remedy could be provided, because if power were given either to the landlord or the labourer, or to any person interested in the property, to apply to the Justices at Petty Sessions, the magistrates at Petty Sessions could make an order that the tenant should within a certain time erect the building, or take

such punishment as the justices should inflict. 1280. Marquess of Salisbary. When you say "the lahourer," what labourer do you mean

That difficulty is not contemplated by the Act. The Order specifies the name of the then labourer, but of course he could be dismissed within a certain time, and the order would never be carried out; or if carried out, he could be dismissed and ejected, and the cottage let to a cottier at a very high rent.

1281. Therefore we may take it that Clause 19 of the Act of 1881 bas never been acted upon?

A great many orders have been made.

1282. Viscount Hutchinson. Why have they not been obeyed? The question of obedience could hardly have arisen as yet, he cause six months

was the time generally put into the orders, and the tenants are trying to get the money from the Government. 1283. Lord Torons. Suppose a labourer were dismissed after the tenant had

built a cottage, how could be enforce the order? Probably it would be a very nice question of law what the status of the labourer in that cottage would be.

(0.1.)1284. Chairman. 14th March 1882.] Mr. Overend. [Continued.

1284. Chairmon.] But the order is not to build a cottage for John Smith, but to build a labourer's cottage. The words of the statute are, "the labourers employed on such holding;" that is a collective body, whoever they may be, and they may be dismissed?

I have not seen the order, but I have no doubt that it takes the form your

Lordship bas indicated, viz., an order for specified labourers who can be dismissed.

1285. Lord Tyrone.] But the tenant who has been forced to build the cottage for the labourer with a half acre of ground with it, could, having built it, dismiss the labourer and keep the half acre in his own hands?

Yes; whether the labourer would be entitled to emblements, or to carry away the crops that he had put in to that half acre, would be a nice question of law.

of law.

1286. Marquess of Salisbury.] There is no specification of how the tenant may use the house?

There is no specification of bow the tenant may use the house; if the cottage is up I think the Statute would be complied with. He does not appear bound to keep a labourer for the cottage and balf acre.

1287. Its subsequent application is not a matter within the purview of the Statute?

No, nor is there any means of considering it, as far as I am aware, and I believe the cottages will be subsequently let to cottier-tenants, at the highest rents, the labourers being dismissed, or made agree to give up the cottage.

rents, the labourers being dismissed, or made agree to give up the cottage.

1288. Duke of Marlborough.] Is there anything in the nature of the order relating to a cottage which would specify what kind of cottage it might be,

because a man might perhaps comply with the order by erecting a mud cabin?

The order says that the cottage shall be so many feet long, and so many feet high, and it also says it shall contain two rooms.

1289. Does it say whether it shall be substantially erected of stone or

brick? Sometimes, but a very useful suggestion was made by Mr. Weir, one of the Sub-Commissioners. He, at his own expense, obtained plans of a labourer's octage that could be errected for 30.4; it was a very nice cottage, and he procording the could be errected for 30.4; it was a very nice cottage, and he promission would present a specification of a prescribed plan. I think if the Land Commission would preservice a specification for labourers' cottages, and that then

the Sub-Commissioners should say that it should be in the form of No. 1 or No. 2 specification, the best cottage would then be erected.

1290. Viscount Hatchinson.] Have not the tenants to go to the Board of Works for money now?

They may.

1201. Chairman.] If they went to the Board of Works, they would have to put up a cottage on the Board of Works plan?

Yes,
1292. Duke of Mariborough.] The tenant would have to pay interest on the

Yes, it would be much cheaper for the tenant to erect a cottage himself, with the assistance of labourers.

1293. Have the Land Commissioners adopted that plan that you speak of, of providing a specification?
No; but I believe they will when the pressure of business cases off.

1394. Chairmon.] I want to ask you about agreements for fixing fair reats in Court; what is the precise process by which they are arrived at? Presuming your question to refer to an agreement in writing between the andlord and tenant.

1295. In

14th March 1882.7 Mr. OVEREND. I Continued.

1205. In the form provided by the Court? In the form provided by the rules.

1206. What is done with that?

The tenant or the landlord lodges that in Court.

1207. Within what time after the agreement is entered into?

A month.

1248. Suppose the land is under mortgage, is that agreement entered into between the mortgagor, the landlord as we should call him, and the tenant, or must the mortgagee be a party to it?

It would not appear that the mortgagee need be a party, because the only person who need be a party is the landlord, as defined by the Act-1200. So that if the mortgagee was not in possession, his consent would not

he pacestury? It would appear to be unnecessary,

1300. At the same time would the mortgagee, supposing he evicted the landlord, he hound by this agreement for 15 years?

He would have three months in which to act. If he within three months found out about this agreement, or saw it in the newspapers, he could come in and object if he thought he had reosonable ground for objecting.

1301. That is to say, within three months?

Yes; then the agreement is filed occording to the rules and the Act of Parliament, and would have the same effect as if the judicial rent were settled in Court.

1302. So that the mortgagee would be hound for 15 years?

He would, or the remainder man. 1303. What notice has the mortgagee of the agreement?

(0.1.) .

I believe they priot o list of the agreements with the landlords name and the tenants' name in the "General Advertiser," and I think in the "Duhlin Gazette." but as it is not interesting information, none of the newspapers print it as a matter of news, therefore the mortgagee might never bear of it; in point of foct, the likelihood is that he would never hear of it.

1304. Earl of Pembroke and Montgomery.] But I suppose mortgages are pretty well on the look-out now for things of that sort?

As a rule, the money is lent by English and Scotch insurance companies, and trustees who really do not know so much about Ireland as you would imagine. I believe that the tenant for life could easily obtain o fine and settle a judicial rent which would be hinding upon the mortgagees, without difficulty.

1305. The case you put is, that by a secret agreement between au impoverished landlord and the tennot, he might fine down the rent?

Yes, and there might be an agreement to return the fine if the mortgages found it out in three months.

1306. If that case did arise, would it not, at all events, put the tenant at the peril, if the mortgagee found it out, of having all that arrangement set aside? Hardly, because the tenant might not know that it was not a bond fide trans-

1307. I put the case that you put, that there was an agreement to keep it

It would be a fraud in that case, but probably the case made by the landlord and tenant when they were called as witnesses would be that they did it in ignorance that the mooey was spent, and it could not then he set aside if it were not bond fide. I think the practice of careats in the Court of Probate might be usefully introduced. Any person interested in assets can lodge a document saying, let nothing be done as to the goods of the deceased without letting me know at a certain address; and if the mortgagess or any persons interested in the land were authorised at the peril of costs to lodge a careat in the Land Commission, saying, let no proceedings to fix the rent go on without notice to

14th March 1882.] Mr. Overend. [Continued.

me in Dublin, with respect to holdings situated in a certain townland or basony, as the case might be, then all notices would have to be served upon those parties; and if the covert were improper they would be made to pay the costs of setting the covert saide.

1308. Chairmen.] I suppose we may assume that the person most interested in preventing a reduction of rent is the landlord and not the mortgagee, because the landlord lives out of the surplus?

the landlord lives out of the surplus?

Primá facie, but we have had many cases in which the surplus was so scanty that it was almost gone.

1309. There might be cases in which the land was mortgaged so completely up to its raine that there would be no interest in the landlord? Yes, there is a difference between the law of the two countries in this respect.

Any creditor of a person is Ireland on obtaining judgment may simply uponworking an sifiadri that be has judgment, and that it is still unsatisfied, and that the defendant is the owner of land anywhere, register that judgment as a morragae, and upon the registration all the extact of the defendant is transferred to the creditor as mortgagee. In Ireland all unpild judgments against landowners are registered as mortgagee, and the last of mortgagees becomes very

1310. But my question was addressed to those who are mortgagees by contract, and not to those judgment creditors who can very well look after

themselves?
That would apply to a great many of them, because I think in Ireland encumbrances approach the full value of the fee-simple more nearly than in England.

1311. Marquess of Salisbury.] How near do they approach in the cases you mentioned?
Insurance companies and people of that sort require in England the ordinary trustees margin and set under the advice of English solicitors; but then the residue of the momer is got in Ireland upon higher rates and upon worse

security.

1312. How close to the whole average rental do the mortgages come?

A fourth of margin is much more common than a third.

1313. And that fourth of margin is precisely what the Suh-Commissioners have swept away?

As a general rule.

1314. Chairman.] Are you aware from your knowledge of proceedings in Ireland whether mortgagess by contract, that is to say, trusters, insurance

companies and others have given notice to call in the mortgages in consequence of the proceedings under the Land Act?

They are giving notice requiring payment of the principal sum even where a reduction is only anticipated. As a matter of fact everything like a transfer of

mortgage, or leading money upon mortgage, is at an end in Ireland at present. The best firms of solicitors are file who were employed in work of that description; there is little money being lent upon land in Ireland now, but there is a good deal of calling in of mortgages which are out at a moderate rate of interest, the landlord being compelled to pay a higher rate to place it again.

315. Are the cases which you refer to, cases in which mortgages serve the

1315. Are the cases which you reter to, cases in which morrgages serve the notice that it would be desirable to call in the money, or are they actually calling in the money?

They are actually calling in the money; the notices are served more with a friendly intention of saying to the landlords, You see we must have this money, and the proceedings will then be in the Encumbered Estates Court.

1316. In order to call them in they must sell the property?

They must sell the property if they can; it pays all persons concerned to sell through the Landed Estates Court, as a rule, because the indefeasible title which that Court is supposed to give to the purchaser is thought to make it worth while to sell through the Landed Estates Court.

1317. Lord

14th March 1882.] Mr. Overend. [Continued.

1317. Lord Brabourne.] We have heard that land in Ireland is almost

unsaleable; is that your experience?

It is so.

1318. Except to tenants?

The only case which I am aware of, of an attempted sale of an estate to the temants, was last week, and the temants would not take the land at the price. 20 years' purchase. I may say generally that if a purchaser bought the land over the heads of the temants who were hidding for if, there would be very liffeeling between them as landlord and temma afterwards; therefore, no person would dream of attempting to hid for land if the temants were bedding for it.

1319. Therefore, the practical effect has been to exclude from the sale of land that element of competition which alone would make that sale advantageous to the landlord?

to the landsord:
Undoubtedly; I think a prodent intending purchaser would apply to the
tenants to ask whether they wished to huy, and when he was satisfied that
they did not wish to huy, and that it was with their sanction that he would

become their landlord, then he might huy.

1320. Lord Tyrone.] Do you think that anybody is likely to purchase in the present state of Ireland, with these originating notices pending?

Not at all.

1321. Is not the sale of land at present practically at an end in Ireland? Practically, it is at an end.

1322. Will the owners of land have to hear the entire loss, or is there any arrangement by which the family charges, the jointures and other encumbrances may be brought in to share?

may ne orough: on search. No; the person who has the fee-simple, subject to everything, must in the first instance hear the whole 25 per cent. loss if it does not cut into the charges; but 25 per cent, will very often cut into the charges and cut away the entire interest of the owner of the fee.

1323. Have you known instances in which land has been left to one member of a family and money charged upon it to the rest?

These over private matters; but in levined the fee-shaple has been very frequently divided amongst the children like personality, to that each child should have a fair show. There are cases of the owner of an unenumbered fee dividing it money from children in the children of the four, a reduction of 25 per ont, destroys the division's interest entirely, but there is no disjutious upon the other members of the family to bear any share of that depreciation, and it would appear to me remonable that where the parties were volunteers to held under a family velocitiesen, they should have some others of the

1324. If the Courts go on as they are at present doing, do you consider that a very large proportion of the landlerds who, up to this time, have been fairly well off will be absolutely ruined?

A great many will be ruined.

1325. Have you any suggestion to make to the Committee to prevent such wholesale ruin as appears imminent?

There are no many crits to be met. Seeing that the loss falls in the unfair manner I have pointed only, it would brillers some owners if the case were diferently charges. There are other costs in which the handler's include unput for any contract of the contract of the cost of the cost of the cost pay off a nortrager which be holds at a low rate of interest, and can only pay off by horrowing a high rate of interest. It the State could authorise him to horrow at such a rate as would enable him to pay off the trustees, it would mittage the defined and the cost of the cost of

1326. What rate of interest do you think would do that?
(0.1.) Q 3 I know

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14th March 1882.] Mr. Overend. [Continued.

I know an instance of a loan of half-s-million upon property in Fredard, that loan was made a few years ago to a proprietor now in the Court. The rote of interest was 4 per cent, and the mights was a good deal more than the court of the co

1327. Your suggestion that the Government should lend the money at a small rate of interest to pay off the encombrances has been made publicly before; has it ever struck you that if that were done it would be extremely unrain to the landfords whu have not got encumbrances on their properties?

The landlord who has not an encumbrance is in a very fortunate position.

1328. But his rents may be reduced?

Of course the answer to that is that he really can hear a loss of 25 per

cent.

1329. Now, has it struck you that it is quite possible that a landlord who has

an encumbrance, supposing he could borrow money from the Government at 3 per cent, might absolutely, with his rent reduced 25 per cent, he in a hetter position than he was before the Act was passed?

A loan to many landlords at 3 per cent. might make matters almost equal.

1330. Take the case of two landlords with 1,200 i. a year each; if both had

their rents reduced by 25 per cent., and one had a mortigage of 1,2000.4 upon his estate, at 6 per cent., We then disting under the mortgage of 1,2000.4 as 6 per cent. could be brown money from the Government at 3 per cent, his income would be absolutely inversace 0.0 t. year, whereas the dute lendlend, who had no mortgage upon his otset, would have his income reduced 200 f. a year; that is to very, that whereas indexer at 6 per cent. upon the mortgaged when the six of way, that whereas indexer at 6 per cent. upon the mortgaged would be 300 f., leaving him a balance of \$40 L, or 0.1 to 0 take good? I never looked at from the high cold of \$40 L, or 0.0 L, to 0 take good?

1331. Do you consider that that would be fair?

I have not considered it.

1332. Viscount Hutchinson.] Do you think that any scheme of that sort would save two-thirds of those whom you think would be ruined?

No; at the most it would mitigate the sufferings of the few who would sarvive.

1333. Duke of Martherough.] Do you know any cases in which mortranees

are putting up lands for sale?

They are not putting them up for sale at present, hecause in the Land Court

and the triangle of the solution of the sale at present, because in the Land Court only 8 or 10 years purchase are heing bid for property, and a mortgage would be destroyed if he sold under those circumstances, so that he holds over in the hope of better years; but I have no doubt that in a few years the Court will be full of sales of land.

1334. Lord Tyrone.] What is your calculation with reference to the rate of progress of the Sub-Commissioners?
The Sub-Commissioners sit a week at a time in each town; the first three

days upon the strenge are compled in the Court bank own in our mixed was remaining three days on the average are coupled ingreding the land; so cases a west would be good business one week with another. For 12 Sub-Counries is the court of the court

1335. Duke

14th March 1882.] Mr. Overend. [Continued.

1335. Duke of Norfolk.] That is, supposing none of the cases were settled out of Court?

The settlements out of Court, as a rule, are of cases that are not in Court; the cases that are in Court come generally to hearing.

1336. Earl Pembruke and Montgomery.] But as the action of the Sub-Commissioners, and the rules they are guided by come to be hetter known, surely many of those cases which are now put down to be settled in Court will be settled out of Court, will they not?

settled out of Court, will they not?

If it had been clearly understood how the letting value had been taken, it would tend in that direction.

1337. Marquess of Salisbury.] But is there any tendency towards that result at present, as to the exact grounds upon which the Sub-Commissions are proceeding?

That will depend upon the way the appeals work out.

1338. And that depends upon the way the decisions in appeal are impressed upon the minds of the Lay Commissioners?

It is very important that they should understand how the matter is, but

It is very important that they should interest in any authorised report at present; it has been only in the newspapers.

1339. Is it your impression that cases settled out of Court are increasing in number? No.

1340. Lord Brabourne. When you refer to the authentic statement being published, do you refer to the judgment of the seven judges?

published, do you refer to the juagment of the seven juages: Yes.

1341. But when that statement is made, considering that the judges all

differ, do you coesider that that will tend very much to clear up the mind of the Sub-Commissioners? The Lord Chancellor gave a supplemental judgment, in which he stated that

it might be well to show the effect of the judgment.

1342. If that is not done it is not quite clear whether those judgments might not enlighten, but rather tend to confuse the minds of the Sub-Com-

missioners?

But nothing could be clearer to the legal mind than the Lord Chuncellor's summing up.

1343. Viscount Hu/chinson.] Could you suggest any means by which the Sub-Commission could be assisted, so as to render the dispatch of business

more rapid?

Only two judges of the county court have yet heard case in any rundow, Only two judges of the say reason why the resident of the judges should not occupy a portion of their time in Bendrigs. But yet any the contract of the proper should not occupy a portion of their time in Bendrigs. But yet any the should not be should not should not be should not be

1344. And in the event of the county court heing more popular than it is at present, you would have to attach a valuator to it, would you not? The county court judge is familiar with the action of the Act of 1870, and it was the thought that he would make the deductions under the Act of 1870.

which made him unpopular with the tenants.

1345. Marquess of Saliabury.] Are agreements with tecants out of Court submitted to counsel?

No, because they only contain the statement that the parties agree and declare

that the fair rent of the holding is so much.
(0.1.)
Q4 1346. Earl

MINUTES OF BUIDENCE TAKEN BEFORE THE

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14th March 1882.]	Mr. Overend.	[Continued.
1346. Earl Stankope Sub Commissioners if it] Do you think it would expedite	the decisions of the

fair rent?
Yes; nod if the Sub-Commissioners did not go to inspect the farms.

1347. If they did not value the land themselves, might they not get through

20 cases a day?

They might do eight a day. That is illustrated by the practice of the county occurs judge; he will not go upon the land, and therefore does double the work that the Sub-Commissioners do.

1348. Would it simplfy the matter very much indeed if that practice were pursued by the Sub-Commissioners:

But it would be a serious matter to submit your estate to the valuation of a valuator selected at random by the county court judge; many landlords would object to that, as would also the tenants.

The Witness is directed to withdraw,

Ordered, That this Committee be adjourned to Thursday next, at Twelve o'clock.

Die Jovis, 16° Martii, 1882.

LORDS PRESENT:

Earl CAIRNS. Duke of Nonvolk. Viscount HUTCHINSON. Duke of SOMERSET. Duke of MARLBOROUGH. Lord Tyrone. Duke of SUTHERLAND. Lord CARYSFORT. Marquess of SALISBURY. Lord PENZANCE. Rarl of PEHEROKE and MONT-Lord BRANGURNE.

THE EARL CAIRNS, IN THE CHAIR.

MR. SIMON LITTLE, is called in; and Examined, as follows:

1349. Chairman. You are a Land Agent in Ireland?

1350. You have attended, personally, some of the Suh-Commissions under the Land Act, have you not? I bave.

1351. How many?

COMERY.

I have attended two sets of Commissions at different places at their different sittings. I have been before two Commissions, and I have had a case before a third; but I have been about three weeks altogether in attendance while they were sitting.

1352. What counties were those in ?

In Wexford and Kerry.

1353. With regard to the question of proceedings, do you consider that the best arrangements at present are made us to what is called "listing" the cases? No, I do not; I think there are too many cases listed for one sitting. I have the three lists of the Commissions that I was before. In the first case there were 50 cases listed, and they only got through 16.

1354. That is 50 listed for a sitting? For the week during which they sat. That was in Kerry. Fifty is the usual number they list for each week.

1355. When 50 are listed for a sitting is it expected that the landlords, and the tenents, and their witnesses and valuers, will be ready all through the week? Yes, it is.

1356. They do not know when their case may be called on? They do not.

1357. As a matter of fact, do they keep their witnesses waiting all the week? They do. We have to pay our valuators for waiting during the time until they are called, also the solicitors. 1358. And, generally speaking, how many of those cases are got through in a

week? In (0.1.)

130 16th March 1882.]

Mr. LITTLE.

[Continued,

In the case at Kenmare, in the county of Kerry, they disposed of 16 out of 50; in the case of Gorey, in the county of Wexford, they disposed of 20 out of 50. There were five cases settled before they were gone into.

1359. Have you ever known as many as half of the cases, 25 of the 50, actually heard and disposed of?

That is shout the outside, I think : a document I have here shows an instance where there were 26 cases heard out of 43; that was in Wexford.

1360. Were those cases heard; or cases heard and scitled, do you mean?

I think those were all heard, but I will teil your Lordship how it occurred, There were 12 of those on one estate, and where there are a number on the one estate they are got through much more quickly, because the valuator or valuer is kept under examination for each case, and it shortens the time occupied.

1361. That brings me to another question. Is any effort made to keep the cases relating to one particular estate together?

Hitherto it has not been so; they are all biggledy-piggledy; one up high, and another down low on the same estate, which is a great inconvenience,

1362. Would the result of that he this: that case No. 1 would relate to a particular estate, and then three or four would be interposed, and the witnesses as to that estate would be kept waiting there until the next case that they would have to attend to (say No. 6) was called on?

That is so; and there is a much larger number between them sometimes.

1363. Is that inconvenient both to the landlord and tenent?

A very serious thing, because a valuer of any standing in Ireland gets five guineas a day, and a guinea a day for his hotel expenses; therefore the landlord is at an expense of six guineas a day, which he has to pay the valuer while he is waiting.

1364. Lord Pengance. Before you leave that, may I ask you this question: at the end of the week when there are 25 remanets, for how long a time do they

We do not know that yet; but I believe the circuit will come round again in three months.

1365. Then the whole expense of attending there is thrown away? Quite. For instance, I had to go to the furthest part of Kerry; my cases were not called on at all, and I will have to go down there again. There is also a matter as to the way in which they take the cases, which I think is an inconvenience. They sit four days of the week, and they go out two days to examine the farms. It would be a coovenience if they took the four days that they sit successively, either in the beginning of the week or at the end of the week; but they adjourn in the middle, and go out for two days, as I say, to examine the farms, and during those two days the solicitors and valuators have nothing to do while they are waiting there.

1366. Duke of Marlborough.] Is that the case of all the Sub-Commissions or only of the one you are referring to?

I do not know; but it happened twice in the three cases I had to do with.

1367. Three Sub-Commissions you are speaking of, are you not? No, two Sub-Commissions at three different towns.

1368. Chairman.] Then when you say that they sit a week in each particular place, does that mean a week which is composed of four days of hearing, and two of inspection? Yes, that is so.

1360. We have been told that, in the originating notice, there is no specification by a tenant, if he gives it, as to what improvements he claims to have made himself; do you find that that leads to inconvenience? I do; we are very much in the dark. Of course, on estates that are pretty well managed we know, or we can guess at, by a knowledge of the farms, what he

comes

16th March 1882.7 Mr. LITTLE,

comes ou one by surprise; he will say he has made so many perches of drains, and very often you cannot discover them.

1370. Suppose the estate has changed hands; would there he any knowledge by the incoming owner? No, not of what the tenant had done, at least not in many cases.

1371. Suppose an estate had been sold in the Encumbered Estates Court, would the purchaser have any trace of it?

No, he will not have any trace of what had been done.

1372. As we understand, he gots un papers or title deeds connected with the estate ?

No, nothing that would show the expenditure of the tenants on the farm, 1373. I mean he gets no agent's books, or anything handed over to him?

No, not with his conveyance, certainly not.

1374. With regard to the settlement of cases out of court; do you find that that is progressing at either an increased rate, or at any rapid rate? I think, on the estates of encumbered and poor laudlords it is increasing. They are obliged to settle, because they cannot stand the expense of contesting the CERRS.

You mean the poorer landlords cannot bear the costs?

No. I have a case where, I think, there were about 25 notices served on a proprietor in Wexford, and he has so small a margin out of his estates, after paying the encumbrances on it, that he could not possibly bear the expense of contesting each of those cases, and he will therefore have to settle with the

tenants. 1376. In the case of a number of small holdings upon a particular property, would the costs of contesting the cases throughout come to one year's or two

years' value of the sum in dispute, or of the margin in dispute? About 16 f. I put down as the lowest amount at which a case can be heard, if you have a valuator at three guiness a day.

1377. Do you mean that 16 !. is the amount of the laudlord's costs? Yes, 16 f. is the landlord's costs, but it generally is much more. It goes up to

25 L; and if you have a valuer of any standing who charges his six guineas a day, of course the expense accumulates very fast. 1378. Suppose the case of a holding where the rent was 32 L, and the struggle

was as to whether 25 per cent. should or should not be knocked off it, the 16 l. would represent two years of the amount at stake? It would.

1379. Is it more easy or less easy to effect settlements out of court on a satisfactory basis by reason of the Sul-Commissioners not laying down any principle upon which they arrive at their decision?

The main difficulty that we have to contend with is, that we are entirely in the dark as to the principle upon which the cases are decided. First, we are entirely in the dark as to what is a fair rent; we know what it is in Great Britain or on the Continent, or even in America, but we do not know what it is in Ireland, nor do we know the principle or basis on which it is calculated. Now it would greatly assist both in meeting the cases on evidence, and also in settling out of court, if we knew upon what principle the Commissioners seted.

1380. Speaking from your own knowledge and that of other land agents with whom you are in intercnurse, have you any idea as to what the principle is on which the Sut-Commissioners proceed in assessing value?

No, I cannot arrive at it at all, and I will produce a few instances to explain how difficult it is. I apprehend that either the rent should be measured on some principle; or if not it is an empirical thing; it is a matter of guesswork almost, and it must depend very much upon the individual apinions of the several Commissioners as to what is fair, unless there is some principle to guide them; and, where the rate of wages and taxation are nearly uniform, as they virtually are (0.1.)

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16th March 1882.] Mr. Little. [Continued.

are over the midland and couthern portions of Ireland with which I have to do, it loubnit that the only ground upon which you can calculate is as regards the value of the produce of the farm; and if the Commission would decide what and the contract of the produce of the farm; and if the Commission would decide what as fourth, or a fifth, or even a sixth, it would be comparatively simple to measure the rent and find what it should be, because we sell know what the greats produce the read of the contract of

1381. Do you find that in any case, so far as you know, they have acted upon any principle of that kind?

No, on the contrary, they appear to be reluctant to go into it.

1382. Do you find that they have taken us a test of the re-

1382. Do you find that they have taken as a test of the rent the fact of experience, that a particular rent has been pold without demur or difficulty for a particular number of years?

No; I have had two cases where the reut had not been altered for 86 years, and in each of those cases they cut down the rent.

1383. When you say it was not altered, do you mean it was not altered and paid?

The rent was paid up to the last gale day; at least the May rent had not been paid when they were hearing the case.

1384. It was the usual hanging gale, was it?
No, we have no hanging gale, but the tenants were behind; in fact most tenants are hehind since this agitation has been begun; they are not as punctual as they were.

as toey were.

1385. I do not mean during the last year or two, but during the long space
of 86 years?

During the long space of 86 years, in one case, there had not been a shilling loss upon it.

1386. What about the year of famine? In that year the landlord made a reduction of 15 per cent. as a temporary allowance.

1387. And with that reduction the rent had been paid? It had.

1388. Viscount *Hutchinson*.] May I ask if they are the representatives of the same family during the whole period?

They are, in this way: it was an estate that was owned by Lord Monek and

They are, in this way; it was an estate that was owned by Lord Monek and Mr. Grogan Morgan. Lord Monek owned three undivided fourth, and Mr. Grogan Morgan owned one undivided fourth. In the year 1850, Mr. Grogan Morgan purchased Lord Monek's three-fourths, and ever since it has been in the same family.

1389. I mean the tenants?

Yes, in one case the tenants have been direct from father to son; in the other case, the tenant about 25 years ago had only a daughter, and a man came in and married her, and he succeeded there.

1300. So that it is practically the same thing?

1390. So that it is practically the same thing it is practically the same family.

1391. Chairman.] You have spoken of the rent continuing unchanged and heing paid during all those years. During that time what has been the differ-

ence is the price produce as compared with the present time?
The searcst date that I can get, if from an old neverspace of the year 1703,
containing the market prices of that year. The letting I can trace back as its
and in that year hatter was from 0.0 to 50 e.p or very; that was 5 d/4 to 6 d.
per lb. We know now the batter market is from 112s, to 140s, for appearance
texter. Beef was from 23c. to 57 s.p or ext.; it is now in Ireland from 000.

The price of the price

16th Moreh 1882.] Mr. LITTLE. Continued. nearly as high as 80 s., but 60 s. to 65 s. is a very fair price for it; 60 s. is 61 d.

per lh-1302. Have you the prices of any other articles?

Yes; here is barley, which is a great crop in Wexford, in which the farm is

situated. Barley was nearly the same in that year, 1793. Later on, it became very much lower. Oats were from 8 s. to 9 s. 1393. Viscouot Hutchinson.] Before you pass from barley, during the last few

years the barley market has been rather spoilt in Wexford, has it not? It has; the barley has not been malting barley. That is owing to the wet

sensons. Barley requires a wnrm dry seasoo. 1394. And was there not something in the way of the failure of a malting establishment which also affected it?

No; the large buyers to Wexford are Guinoess, the brewers; they take all the good barley they can get, but they will not buy inferior barley.

1305. Lord Pembrake and Montgomery. I suppose the price of labour has good up over the space of time you are speaking of? It has. I was asked that question by one of the Commissioners, as to its being

a set off against the iocrease in the produce, but I think it is not at all a set off, for this reason, that wages have risen 50 per cent. io Ireland; that is, labour which you could get for I s. a day, is now I s. 6 d.; it is 9 s. a week instead of 6 s. That is 50 per cent. increase; but the expense of labour, at the outside, taking it at a very liberal calculation, is only two-fifths of the gross value of the produce, and 50 per cent. on two-fifths is only 20 per cent., therefore the labour, as regards the whole produce of the farm, has increased 20 per cent., while the prices of the five principal articles of produce in Ireland above the scale of Griffith's valuation, have increased 65 per cent-

1396. Lord Penzance.] Do you mean gross produce of all sorts? Of the five principal articles of produce, I leave out wheat, because wheat is

not much grown in Ireland. 1307. Lord Pembroke and Montgomery.] Is it not the case that when holdings are small the increase in the price of labour is rather an advantage to the tenant

than otherwise? He gets the benefit of the increase, because it is within his own family.

1308. Chairman.] Then, in those holdings you have spoken of as holdings upon which the rents had been paid so loog without a chaoge, what was the reduction made?

In one case the contents were 42 seres; the rent was 43 L, and it was reduced to 38 L

1399. Viscoont Hutchinson.] What was the vuluntioo?

Griffith's valuation is 35 & 10 s. I ought to mention as regards this, that this holding is situated within n mile and a half of the town of Wexford. Its connection with the town was formerly by a toll bridge, on which the tenants had to pay 6 d. for each horse and cart, and everything else was subject to a toll that was brought into the market. About 25 years ago this bridge was opened free, therefore the tenant got all the benefit of that, as at the time his rent was originally settled that toll bridge was there.

1400. Chairman.] What was the other holding? The other was a holding of 37 acres; the rent was 43 l. for that also, and it

was out down to 39 L 1401. What was the Poor Law valuation of those two?

For the 37 acres Griffith's valuation is 36 l. 10 s., and the reot is brought down to 39 I. I find that in the vicioity of towns Griffith's valuation is even lower as regards the value of the form than at a distance from towos. I do not think that Sir Richard Griffith made sufficient allowance for the advantage of being near n town. In both these cases it came out on examination from the tennnts themselves that they sold all their hay and all their straw off their farms in the town of Wexford. Of course it is difficult for tenaots to thrive, no matter how low their rent is, when they deal with their laud in that way.

1402. Did

(0.1.)

16th March 1881.] Mr. Little. [Continued.

1402. Did you conduct those cases yourself before the Sub-Commissioners? No; I was only there as the agent; there was counsel and a voluer.

1403. You had counsel and a valuer? We had a professional valuer,

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1404. Marquess of Salisbury.] You instructed them, I suppose? I did.

1405. Chairman.] These facts which you have mentioned were brought out, I suppore:

suppose?
They were all brought out; the date of letting, and also the fact of the men having sold their hay and straw, oud that they had been relieved of the tolks of the bridge.

1406. Marquess of Salisbury.] Did the Commissioners go upon those farms? Thay did.

1407. Had you my conception of the process of reasoning by which they arrived at the decision to which they ultimately came?
No, that is what puzzles us; we cannot guess at how they arrive ot their

decision.

1408. Lord Penzence.] Have you attempted to contrast any number of cases with a view of seeing whether there was any definite proportion between the

gross produce and the rent arrived at?
Yes, I have in several cases that I was concerned in.

1400. To try and abstract a uniform rule?

1400. To try and abstract a uniform rule: Yes, and I could find none. I have the reductions they have made above and below Griffill's valuation, but they vary so much that I cannot guess at what they go upon.

1410. Earl of Pembroke and Montgomery.] You proposed just now, that the rent should be arrived at by a produce valuation rather than by what you may call a competition valuation, but that would leave the question os to how much

of that was due to the landlord io as unsettled a state as ever, would it not?

No.1 think if it was once settled by the law that the landlord's rent was to
be a certain rateable share of the gross production of the farm, we would how
to that, and oct upon it.

1411. Chairman.] I understood you to say that, as regards settling cases out of Court, if you once knew what was considered by the tribunals to be a fair share of the produce to assign to the landlord, if, inassuch as you had the means of knowing the amount of produce yourself, you could settle the matter?

the means of knowing the anount of produce yourself, you could settle the matter?

Precisely.

1412. I suppose the original idea of rent, and in many cases, in fact, to the present day, is strictly and entirely based upon that very consideration?

It is.

1413. It is a question of how much of the produce in bulk the landlord should

take?
Yes I remember that in Ireland, when the landlord, as a temporary convenience when going away, let off land that he bad in his own hands; it was very usual to let it off on what was called in Ireland sowing for halves. The tenant took

the land for a year, two years, or three years, and first deducted the expenses of seed and labour, and then whatever the crop was sold for was divided between the landlord and tenant, and that was virtually a third, I take it, io those days of the produce.

1414. Lord Tyrone.] Might not the produce be very much increased through

the tenant's improvements?

Yes, it might; but on the other hand, it may be very much diminished, which is much oftener the case; at least, I am speaking of the south and centre of Ireland; I do not know the north. I believe that is different, but in Ireland

16th March 1882.] Mr. LITTLE.

for one case where the landlord's value is improved, I say there are nine cases where it is injured.

1.11. But whether it was injured or improved, would that not equally mili-

1415. But whether it was injured or improved, would nat not equally miltake against taking the productive power of the land as a thing to go by to fix rent?

I would not fix it on what it produced under the management of a man who

I would not as I do want in produced under the mining-met of a limit who monetarily inflating it would produce; and that is one of the comparison. It have against the Shall-Commission, that is two cases I had to deal with, where the enants had uttry exhausted the firm, and left the had firstly elemented the firm, and that the had firstly elemented the great is the state they South the firm in and I do not say that the state is the state of the state is a set of the state is a better made sarry with. Litera particulars of two cases here. One is the case of a man who had 44 acros; the Griffith's valuation was 30.1, and his trave 331.14 s.

1416. Chairman.] The present rent, as it is called?

Yes; the old rent was 314 14 **, and the valuation was 304. They reduced that man's rent to 24 t, that is 20 per cent. below Griffith's valuation, but that land is atterly serile, from the way the tenant has continually cropped it without ever putting any manner on it. He has no entitle to make manure; he subtets his grass, and continues tilling the land until it will produce no more.

1417. Duke of Sutherland.] Is it the custom to allow the tenants to sell the strew and hay?

We cannot prevent it; at least, at present we could not.

1418. Chairman.] Then what was the view, do you understand, of the Sub-Commission Court; is it that they were bound by Act of Parliament to put the value on the land as it stood?

I do not know; but if they were any judges themselves of land they could see, from examining the land (and they did walk over it), that the land was naturally very fair land, but had been reduced to that state; as the valuator who was examined before them said, the life had heen dragged out of it.

1419. According to the experience you have had, did not they in any case take into account the deterioration, and put it against the allowance they would otherwise give?

I do not think they did, as far as I could see; but I do not know.

1420. Lord Tyrone.] I should like to know what powers the landlord had in the past to prevent the tenants deteriorating the soil?

In three past if the man was a yearly tenant, and persisted in running out his land, the landlord outleter him with notice to quit, and put his out; but it land, the landlord to all serve him with notice to quit, and put his out; but it generally happened that when he was served with the notice to quit he mended his hand, and did not perserver in selling off the straw or hay. If he held under a lease, there usually was a covenant against his doing it under a penal.

rent or under a forfeiture; and if there was no such covenant, the landlord was at his mercy; the tenant could sell away. 1421. Did the landlords often make use of either of those powers? I used occasionally to serve notice to quit on a yearly tenant, if I found him

treating the land very shamefully, and I found that it had an effect too.

1422. But in future, after the passing of the Act, you will have no such power?

We will be helpless; under the Act there is a power, in the case of selling,

of coming in and claiming compensation. During the 15 years, if he is guilty of persistent waste, you can put him out; but you must prove that it is persistent waste, and also there is a power to compensate the landlord by a money payment instead of putting him out.

1423. Do you anticipate that that will be in any way sufficient to prevent the deterioration of the land?

No, I do not.

(0.1.)

16th March 1882.1 Mr. LITTLE. Continued.

1424. Chairman. When the Sub-Commissioners go to visit these farms, how do they do it; do they go alone, or do they take anyone with them? Generally the two laymen go, but sometimes the barrister goes with them.

1425. Not always? No : not always.

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1426. What does he do? He sits at home, and, I suppose, works up some of the evidence.

1427. You say sometimes the three go, and sometimes the two laymen, leaving the legal gentleman at home?

1428. Is there anybody else with them? We send the bailiff of the estates to show them the farm; that is, to point out the land.

1429. And does the teoant meet them? Yes, always.

1430. And I suppose he gives them some information? He has plenty to say.

1431. He is not bound to silence, in any particular ?

No.

1432. Marquess of Salisbury.] Is he allowed to see them alone? He sees them alone, walks over the land with them, and points out all he has to show.

1433. And does the bailiff see them alooe? The builiff does not interiere, but merely goes to the land and shows them

where the farm is. 1434. Then they only hear one side of the case, so long as they are out of

doors ! That is all. I do not know, but I believe there have been cases where the agents go with them, but do not much like it; they do not seem to care for it,

1495. But they like to have the tenant? I do not know that, but the tenant takes care to be there.

1436. Whether they like it or not? Yes.

1437. Duke of Marlborough.] The bailiff is a silent guide, and the tenant only is the witness? The bailiff just points them to the farm, and then the tenant meets them and

walks over it with them. 1438. Marquess of Salisbury. If the tenant says, "There is a drain here which I dug," there is nobody there to contradict him if it is untrue?

No. 1430. And it does not necessarily follow that that statement will re-appear in

open Court? No. it will not appear. 1440. Duke of Marlborough.] But there is nothing to prevent the landlord's

agent also meeting the Commissioners if he chooses, is there? No. I think not. 1441. Is it not considered desirable on the part of the landlord that his agent

should be present during the survey of the land by the Sub-Commissioners? It is a matter of feeling as to that. As far as I could judge, the Commissioners prefer being left to themselves.

1442. But, in the interests of the landlord, would you not consider it your duty to be there on the spot while they are pursuing their examination, in order that 16th March 1882.]

that you might reply to anything which was stated adversely to the landlord on

the other side?

I think it would be an advantage; but if I thought the Commissioners did not wish it I should not like to do it.

1443. Would it prejudice your case in court? No, I do not think it would.

1444. Chairman.] Do you consider, so far as you understand the proceedings of the Sub-Commissioners when they yo upon the farm, that they value field by

field, or that they merely take a comjectionive view of the situation generally, and and we we think this form is worth to much! I sharm that it is impossible for any men. et any three men, to wait wore not when the forms in a day and year men. et any three men, to wait wore not work to form in a day and year. When the state of the state of

adjoining you will have land that is worth 1.1 an acre, and unless the Comulsiances know the number of arter, node, and perhebot of rede, quodity of land, they cannot arrive at a product that is at all exact or accurate as to the total value of the firm, and that they do not do that I know, whough I have never a substantial to the contract of the c

1445. Do you think it has a dispiriting effect, as regards the value of the land, to do it on a very wet day ? I do not know, but I know they could not open their Ordnance sheets and

mark off the different classes of land in such weather, and after doing that they ought to go home and scale off the acres, roods, and perches, and calculate the rent according to the acreable value.

1446. Would the large scale Ordnanes map that you have now be certain, upon every holding, to show the proper acresge of each field?

Quite sufficiently so with an experienced surveyor, who can scale it off with his scale upon the map. There is a little to be allowed for sbrinkage, but a man who has had any experience could do that. All Sir Richard Griffith's walnations were done in that way; the valuator just put down in pencil on the field the

number of shillings per acre. Having done that, he goes home at night and scales it off on the map. 1447. So that they would have to supplement that by scaling it off when they came home?

came nome r

Yes, it will take a second day to scale it and calculate it at home in the office,
taking serger mode, and negocia at so much an acre.

taking acres, roods, and perches at so much an acre.

14.48. Your view, as I understand it, is that any personal inspection which could be called a ruluation would require them to go upon each field, and to say this field is worth so much an acre, and then afterwards to find out how many acres there were in a field?
Yes, I say it would take some time to do that, and in order to do it they

should have their map with them and mark the value of each field on the map, because they could not keep it in their heads.

1449. Lord Tyrone.] Would not the valuation of a farm vary very much

1449. Lord Tyrone.] Would not the valuation of a farm vary very much according to the class of weather at the time it was valued?

Very much.

1450. And the time of the year at which it was valued?

Year much indeed, I know much land in Wexford which, if you saw it in the winter, you would not think it worth 10s. or even 5s. an acce; and in the summer, when the red clover grows upon it, it presents a very different appear-(0.1.)

S

ance,

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unce, and is most valuable land, and in the winter it is all brown and bare, and,

[Continued.

The

nnless o man knew the lnod, he could not have any idea of the valua of it.

1451. Have you had any experience of the Sub-Commissioners valuing land in frost or rain?

They went out to a pouring rain.

1452. And fixed the value of the land in weather when you consider the land

looked entirely different to what it would do at another time? Yes. 1453. Lord Penzauce. You talk of valuing six or seven farms in a doy; what

1453. Lord Penzance.] You talk of viluing six or seven farms in a doy; what sort of acreage are you thinking of?
The average run of holdings in Ireland are 20, 30, to 40 acres, and a good

practical experienced valuator will do 150 acres in a day, or from that to 200 acres; then he will take another day to enleulate it at home.

1454. Chairman.] It would depend, I suppose, upon the particular farm, and whether there were great variety in different parts of it?

Very much, and also the number of fences; I had a farm of 40 acres which a

Very muce, and miso the number of renews; I man is not 40 series which a valuer went down to value, and there were on the 40 acres 40 fences; at all events it had a great deal of fencing upon it.

1455. Duke of Marlborough.] Are the lay Sub-Commissioners of whom you speak supposed to have any professional knowledge or training fitting them for valuing had?

Think two of the men I had to do with were farmers; they farmed pretty extensively themselves, and as to the other two, one of them had been a land agent, and I do not know whether he had experience as a farmer or not, but I sunpose he had in farming his sow band.

1456. Marquess of Salisbury.] Who were the two farmers?

There was a Mr. Kenny; I am only speaking of what I have heard; Mr.

Kenny, who came to Wexford, I heard was so extensive grazier in Clare.
1457. Lord Brabourne. Were either of them farmers in the district they

valued in?

No; the other was a gentleman who farmed in Tipperary.

1448. Duke of Marthorous h. Do you consider that on occupying farmer,

without having any professional training fitting him for valuing land, is a capable person for putting of fair value on land? I think it is very much rule of thumb as to the value he puts on it. He guesses of the quantity, because, unless he was able to scale off the quantities of

the different classes of the land, ha cau only guess about what quantity is in each field; he is not exact.

1450. Chairman. Are you speaking of wheo witnesses are brought to give

evidence?
No; I am speaking of the Sub-Commissioners themselves.

1.46o. In your own experience have you had any controversies before the Sub-Commissioners as to the acreage? No, because we only have the acreage of the whole farm; they do not go into the details of it.

1461. But with regard to getting valuators, what have you done; have you brought your valuators from a distance?

brought your valuators from a distance?
Yes, some from a distance, and some we have got in the locality.

1462. Local valuators? Yes.

1463. Is it easy to get local valuators in the county you refer to?

In Kerry you cannot get them at all; at least it is almost impossible to get them.

1461. Then, according to your experience, where there are local valuators, are they biassed, do you suppose, in favour of one side or the other? 16th March 1882.7 Mr. LITTLE.

The landiords are the only people who virtually employ valuators, because the tenants get their neighbours to value for them. In Kerry, of the 16 cases that I heard tried, there was only one case where a tenant produced a man who

professed to be a professional valuator and surveyor, but that man when he was cross-examined by a counsel could not tell how many perches were in an acre. In other cases the tenants value themselves, for their neighbours who have also most likely served notices and expect reciprocity, and that when they have sworn to their neighborrs' value their neighbours will do the same for them

1465. I suppose you meen they act in a neighbourly manner in that way? Yes, quite. In another justance I heard the tenant himself was valuing his land in Kerry, and the Commissioners did go into the question of the produce of the cows and pigs, that is the chief farming in Kerry. There is little or no tillage; and this man was examined by the attorney who was acting for him, as to the produce per cow on his farm. First of all, he started by saying that his cow produced one firkin of butter a year, that was just half the quantity that a fairly good Kerry cow ought to produce; it ought to produce two firkins. Then he was examined as to what it cost to keep the cow during the winter by nurchasing food because they grow no green crop there, and I took down the items that he said he paid for, bran, and meal, and hay for his cow, and when they were totted together, he was a loser by keeping the cow if he only had the

1466. That is allowing that she only produced the firkin of hutter?

Yes. He swore that he only got a firkin of butter. Therefore I say the evidence on the tenant's part is very unreliable, and, so far as I can judge from my own observation, I really think the Commissioners go more by their own examination of the farms than by the evidence on either side. I do not know that as a fact; I can only form that opinion.

1467. Eurl of Pembroke and Montgomery.] On what principle do the valuators called in by the landlords make their valuation which they hring before the

There are generally four classes of land upon one farm, and they put down so much an acre for one class and so much for another, and then they bring it all out and show what it comes to, and, I presume, they do it on the produce; that is what the land is able to produce, but I do not know that. The valuator that I have chiefly employed is a man who menages 2,000 acres of land himself, and has the greatest experience of what the land can produce.

1468. What proportion of the produce then do they allow to the landlord? I do not know.

1469. You do not know what principle they are guided by?
No. I do not; I should think what would be fair would be a fourth, but I would be very well satisfied with a fifth.

1470. Lord Carysfort.] Is it the same proportion on the arable land?
Yes, I am speaking of tillage farms; because of course, upon grass farms it would be quite different. The labour would be very much less, and the landlord's share of the produce ought to be more than a fourth or a fifth ; I think a third would be certainly fair on a grass farm.

1471. Chairman.] How much would you assess for seed and manure and working expenses? Two-fifths I put down for working expenses and seed and taxes, and then

there would be three-fifths to be divided between landlord and tenant. 1472. Is not that a low estimate; do you think you can put the seed and

I do; in Ireland labour is low. 1473. Marquess of Salisbury.] Does that allow for any manure? I take it that the tenant makes most of the manure, but that he huys some artificial manure. He ought to make the most of it within the farm if he has

working expenses of every kind at less than 50 per cent.

any stock. 1474. Duke 16th March 1882.] Mr. Little. [Continued.

1474. Duke of Norfulk.] In your opinion, in the majority of holdings that you have had any experience of, do you think during the last 15 years they have have inspend or detainment to be action of the transit.

been improved or deteriorated by the action of the tenant?

I think in the last 15 years, up to about five years ago, a good many of them were improving, but within the last five years they have gone down very much.

and let the land run down very much.

1475. Had the tenant in some cases done justice to his holding and improved

Yes, in some, but I think in the majority of cases the farming in Ireland is utterly insufficient and incompetent.

utterly insufficient and incompetent.

1476. Therefore the rent fixed now would be, so to speak, unfair towards

1470. Therefore the rent fixed now would be, so to speak, untair towards the landlord, because it would be based on land which the tennnt had spoilt rather than improved? Yes, I think so.

1477. Chairman.] Taking the cases that have come under your notice, and in most or all of which we understand reductions have been made, have they pressed, in your opinion, more hearily upon the land that was high rended, or the land that was low reated, upon what are called good landlords, or the more exaction landlords?

The more exacting landlords have come off the best, because, of course, although there has been a larger reduction made as regards the rent in their cases than as regards those that had the had let low, yet the rest is left higher after the reduction in the case of the landlords who let their land high than on those who let it low.

1478. Higher in proportion, you mean? Higher in proportion.

1479. Lord Tyrone.] You were speaking about valuators just now; have you ever seen any demonstration in the Court sgainst the valuators?
Yes. I have heard them hissed.

1480. In the open Court?

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1481. What did the Sub-Commissioners do then? In that case they did not do anything; but down in Kerry, the Chief Commis-

sioner. Mr. MacDevitt, kept very good order, indeed, capital order, and would not allow them to go on in that way. I do not know whether the fact that the Marquess of Landsdown was in the gallery the whole time had anything to do with it.

I have. 1483. And therefore it makes it almost impossible, as you say, to procure

valuators?
In Kerry valuators are afraid to value. I heard of a man there who was a

In Kerry valuators are alread to value. I neard of a man there who was a professional valuator, and I believe a very good one, and he said he would not for any money be tempted to value, because his stack-yard would not be safe the next high.

1484. Lord *Penzance*.] Is there any means of getting an order from the Commissioners, to permit the valuer to go on to the laud?

Yes, I have no doubt there is, because the Chief Commissioners have said they would know how to deal with any case in which the man had been refused if such were brought before them.

1485. Have they dealt with it? I do not know that, because I have not had any case of that sort.

I do not know that, because I have not had any case of that sort.

1486. Lord Tyrone. In the case of a landlord not producing a valuator, what
do the Sub-Commissioners do?

One

16th March 1882.] Mr. LITTLE.

One Sub-Commissioner said they would take the tenant's evidence and act upon it alone, but others have held differently.

1457. From the evidence you have given you seem to say that the rent has very little to do with the tenant's thriving one way or the other. Very little indeed.

1488. What reasons have you got for that?

I have one estate that I am agent for that is the lowest let estate in the country, or I should say, that it was about the lowest let. It is let at an average of Griffitia's valuation, and the tennats on it are the most impoverished of any estate that I have to do with.

1850. Chartman! You do not mean to say, supposing all other things to

remain the same, there being two holdings exactly alike, that the tenant who pars the smuller rent is the more likely of the two to strive? I do not think he is. I think, on the contrary, it encourages him is idleness.

I do not think he is I think, on the contrary, it encourages him is idleness. If the land is fair and he has the land too cheep, he thinks he can afford , to do nothing; he presumes upon its being so cheep.

1491. Lord Tyrone.] That is to say, if a tenant has a farm almost for nothing, be lives with his hands in his pockets and runs the farm out and does not thrive at all?

Certainly. The first thing he does is to borrow money, and pledge one or two fields, and then he will plodge two or three more fields for a sum of money for a certain number of years; very oftso I have found a tenant living on two or three fields in his own occupation, and all the rest of his farm pledged to money-leaders who had advanced him money from time to time; then in the end he geocraftly was squeezed out shogether.

1401. Chairman.] Do you consider that to be an argument against peasant proprietors?

Yes, I have no faith in peasant proprietors, though I think it would be a very interesting experiment. I should like to see ittried. From my owe experience I have had nothing to encourage me in it, because we have had two classes of peasant proprietors to the county of Wexford, and in both cases they have not succeeded.

1492. What were they? There was a large acreage of Crown commons which were squatted on by tenants, and whose title is now recognised by the Crown; they are not disturbed;

by one.

they have reclaimed the land and they live on it. They average about 10 statete acres each. These men are in great poverty in the winter; they go out as labourers.

1403. You would not think squatters who have taken possession of a portion

1493. You would not time squares who have taken passesses of common land, a fair specimen of peasant proprietors, would you?

They have reclaimed it and improved it very much, and done their best with

In the mean the class of men who hold leases on lives renewable for ever, which were converted into perpetuities, and their land was only half-a-crown as I rish sere, which was not much more than a quit rent. There were a number of those holdings in Wexford.

1494. What sized holdings are they? Generally one townland; that is to say, they vary, I should think, from 75 to 150 acres.

1495. In the hands of one person?
Yes, they were originally; but I do not know one instance now in which a

descendant of the original lesses is in possession of his farm.

1496. Are they subdivided?
They are subdivided and away with; the descendants of the original lesses were all especared out through neglect and extraorgatice, and in many of these cases there are six tensates now paying the rear which was originally peak

one. (0.1.) 8 3 1497. What 1497. What was the origin of that rent in regard to these holdings?

I think they poid a fine at the time: they generally date back 150 years; of course I exclude cases where the neighbouring proprietor bad a lease of that kind. There are a few cases of that sort, and there they have held on because there they had other property to supplement it, but where the tenant had nothing but the holding alone he lived on. They overyone went to the bad; there is not one remainize.

1498. Earl of Pembroke and Montgomery.] In what part of Ireland is that? That is in Wexford.

1499, Lord Brabowne, Have the landlords ever complained before the Sub-Commissioners in Court, and brought evidence of their inability to get valuators, or of the valuators being afraid to value?

valuators, or of the valuators being arraw to value?

I have seen it only reported in the paper; I did not see any in-tonce of it myself, but in Kerry the only valuer that was produced was the Marquess of Lausdowne's agent, Mr. Treuch, and he valued for another proprietor as a friend. Mr. Mahony's agent also acted as valuer in one or two cases.

1500. When you told us just now that the Sub-Commissioners sometimes went upon the tenant's valuation alone in those cases, had the handlord declined to value or bring any evidence that he had heen unshle to get a valuator? I am not able to say that of my own knowledge.

1 am not able to say that of my own knowledge.

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1 an not able to say that of my own knowledge.

Court?

Yes, but not many. I am of opinion that where a landlord knows that his estate is fairly nented he should not settle out of Court. If I believed there was

uo injustice, and that a man had the land m a moderate rent, I would not settle out of Court; but where I helieve it is sharply rented, there I think it is better to settle out of Court, and I have had a good many cases of that kind. 1502. You have had a good many cases sharply rented?

Yes, when I say sharply rented, I should say that is at a full rent as compared with the reuts all round. I would not call it sharply rented if the Innis were

properly cultivated, but in the insufficient way in which Irish tenants cultivate their land I consider that the rent was sharp.

1503. Do you think that the agreements out of Court will increase as time

goes on?

I think they will increase in the case of the poor landlords; I do not see what else they are to do.

1504. Lord Penzanes.] As the cases accumulate and the Courts get obstructed, is it not a necessary consequence that there will be more settlements? I think so.

1505. But they will be driven into settlement?

Yea, I think so. So far as I can see, unless there is a settlement out of Court, believe that now than there-forwise of the wardy tenant in Indiand will serve the second of the server than the Indiand will serve the solicitor; they have not to pay a quitant for the solicitor; they have not to pay a valuator, and it is worth their while, for the solicitor; they have not to pay a valuator, and it is worth their while, for the solicitor they have not be pay a valuator, and it is worth their while, for the solicitor they have not to pay a valuator, and it is worth their while, for the solicitor than the solicitor than

1506. Lord Brasowne.] We are upon the sharply rented point now. Does your experience as a land agent confirm the statement made by the minister who introduced the Land Bill, that it was the rule and not the exception in Ireland to exact a low reat, or, at all events, not such a rent as would be exacted in Encland?

na angianor Certsinly. Toe average letting of estates that I have to do with is about 15 per cent. over Griffith's valuation of the land, excluding the value of the houses. Now that I hold to be a very moderate rent, and a great deal of the estates are let at 15 to 20; that is the tillage land.

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16th March 1882.] Mr. Little. [Continued.

1507. Is it the habit of landlords in Ireland to let their farms by tender, or

generally by private agreement between man and man?

If a form falls in to them they do not advertise it generally, but they receive

offers for it; and on estates I have to do with we generally rry to give it to the adjoining tenant, throwing the whole together. Now the free sale provision will defeat that because an outsider will come and will give more than the adjoining man thinks it worth or is able to give.

1508. You would give it to the tenant? To the adjoining tenant in order to enlarge his farm, and who may be a

thriving man and anxious for more land. An outsider, who has no land will come and bid at the sale of the tenant's interest, and hid more than the adjoining man would be inclined to bid for it, and so it will prevent landlords from squaring or improving their estates in that way.

150g. In that instance the tenant who had to sell would get the benefit of the competition which is denied to the landlord? He would.

1510. Viscount Hutchinson.] At the same time the lamilord would have the right to exercise his right of pre-emption?

Yes, there is that advantage, and that is about the greatest pull we have.

1511. Marquess of Salisbury.] That depends upon the decision of the Court as to what the letting value of the land is, does it not?

It does; and that is a point I would like to make some observations about it is very old, and I cannot make it out. The first case I have here is that of a farm let in the year 1818, 100 acres in extent; it one let at 131 A. a year in the farm of the second of the se

1512. Viscount Hutchinson.] The valuation being how much?

The valuation was 100 i.j. it is excellent barloy hand; it is but that will protouce 12 bursels of basely to the sare, and they valuad the interest of the tensart, after rothering the restor 135 i.g. at 500 i. Then I come down to a form the control of the contr

1513. Lord Tyrone.] Then according to that, you would suppose that the Commissioners thought that the value was increased by the greater reduction of rent?

rent? Yes, I suppose so; but then they are presumed to put the reut that is fair on each case.

1514. Marquess of Solidary. What part of the country was this in? It was in Weston. With regard to that first ease, the root of which weafixed 63 years seps, about five years ago it being an outlying portion of the landers's settler, he agreed with the tenuat to set it to him. and the tenuat greed to present the settler of the was found to be about the settler of the was formable to the tenual's self-circ from the settler of the was formable to the tenual's self-circ from the standers period not be entaint vas self-circ from the settler of the was formable to the tenual's self-circ from the settler of the was formable to the tenual's self-circ from the settler of the was formable to the tenual's self-circ from the settler of the settler was self-circ from the settler to an anustry, and that this head night be collisorably builde for it, and advised that it was not a good titie, and the anews beckmon (i), it is showed that the beautiful that the thinks the settler of the settler of

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Continued. Mr. LITTLE.

had been all clear, and I brought that forward before the Commissioners. That

would be rather a guide to show that the rent could not be very far astray, 1515. Earl of Pembroke and Montgomery. Before you leave that subject, was

there not a great difference in the amount of the tenant's improvements in the two farms which would account for it?

No. On this farm in respect of which they gave the 500 f. interest, the dwelliog-house had originally been built by the owner of the estate as a residence, and the holding of 161 acres had been a demesne that he had in his own hands a great number of years ago, but it was leased in the year 1831 to a tenant, and this man got the heaefit of the dwelling-house that the owner had originally lived in. I am not quite clear now whether in the 500 l. the value of

that dwelling-house is included or not. 1516. Duke of Marlborough.] Is it the practice of the Sub-Commissioners when they fix a fair rent to ut the same time value the tenant's interest in the farm? If you ask them they will do so. You must serve a notice a week before, calling upon them to value the tenant's interest,

1517. Chairman.] Both parties must ask, must they not? No; if the landlord serves a notice to have the value of the tenant-right fixed, the Commissioners are bound to do it.

1518. Duke of Marlborough, If the tenant should at any time elect to sell his interest, can the landlord always purchase it at that interest or that sum?

He can, and that is the greatest boon we have. 1519. And is it at all known or understood upon what principle the Com-

missioners go in valuing those tenants' interests?

That is quite as much in the dark as the other. I cannot guess at that at all, hecause in some instances they had no evidence. Of course if it was an estate on which the tenent-right had been allowed to be sold it was a guide to them as to what farms had previously sold for ; but on an estate where it had not been permitted I do not know what was to guide them as to what the value of the tenant's interest was.

1520. Earl of Pembroke and Montgomery.] Would not the value of the tenant's improvements he a guide to them? Yes, if there were improvements they would give him that, but that would

he a very small part of the price that they have put down here. 1521. Lord Tyrone.] Do you think that landlords will avail themselves of

that advantage of buying up their own property again? In old times I should certainly say yes, because I would have done it in this way; I would have arranged for the landlord to do it, and then get repaid by the adjoining tensot, and put the two farms together if he was a good man and fit to have more land; but I do not know whether it would be worth the landlord's

1522. Might not the landlords be rather afraid of huying up their own proporty se regards the tenant-right after the way they were treated in Ulster? I would not dream of it, unless the adjoining tenant was ready to pay the landlord what the landlord paid to the outgoing tenant. I would not risk it.

while to trouble his head about it now,

1523. Duke of Mariborough.] In any case, whether the land was handed over to the adjoining tenant or any other person, the landlord would, on re-letting the farm, he recouped that sum which he had paid for the tenant-right, would he

not ? I think he would in some cases. That farm which they valued at 300 & would certainly get that or more. This one which they valued at 500 & I do not think would briog it.

1524. Would it be the case that in certain instances the landlord, having paid the sum which was set down by the Snh-Commissioners as the value of the farm. might get more for that farm on re-letting it to another tenant? He might; I think he would in the case of the 300 L farm get more.

1525. Chairman,

16th March 1882.] Mr. Little.

1525. Chairman.] How is the law under the present Act; supposing be had brought up the tenant's interest, re-let the land to the tenant and the tenant to more commence again the interest that the tenant under the Act, would there not at once commence again the interest that the tenant had sold:

1526. So that it would be the same thing over again?

Yes; but if the incoming tenant paid the landford the sum he had paid the outgoing man for his interest, then, of course, when he was going he would probably get the same price again; that is if he had to go.

1527. Lord Penzance.] There would be nothing to make it necessary that the incoming tenant should pay the same price the landlord had given; he may give mun, or he may give less?

He may give more or he may give less.

rie may give more or ne may give les

1528. It would be a matter of burgain between him and the landlord? Certainly; the landlord might make him a present of it or cluarge him more if the thing would bring more.
1520. The landlord would be entitled to the market price of it?

He would.

1530. Chairssan.] We have had before us the number of originating notices which are now pending and which as you have said just now could not be disposed of for a very considerable time by the present Sub-Commissioners; then you gave an estimate just now of what in your option would be the increase in anolications; what did you say was the number?

increase in applications; what did you say was the number?

I think that more than three-fourths of the yearly tenants in Ireland will go into Court nelses they get a voluntary reduction, because they will be willing to chance it or risk it.

153: What is your opinion as to the staff that would be required to do the business which would arise in that way?

The solicitors who practiced in the Courts in Kerry are of opinion that it

would take two sets of Commissioners for Kerry alone, one for North Kerry and one for South Kerry, to get through the work in a moderate number of years. 1432. Do you mean the work that is pending, or the work that will come in?

To keep pice with the work that is pending and the work that will come.

1533. And I suppose two sets of solicitors also?

I suppose so.

1534. I suppose there is every possibility of an increase in the legal profession in Ireland?

1535. Have you heard of any inflox taking place? No; but they are thriving very much.

1556. It has been suggested, and I should like to have your opinion apon the suggestion, that sementhing might be done to meet the influx of boissess in this way; that where a tenant errord an originating notice for a judicial rant he might he required to ame a valuator and the leandered a valuator, and the two valuators to fix an unspite between them, or if they could be about the contract of the country of

I am carrying that out on Lord Powerscourt's estate with his approval. He approved of it.

1537. How does it work?

It has worked fairly well; hitherto the two valoers, the landlord's valoer and the tenant's valoer have agreed; of conrac, they have each to give and take, but they have agreed in a good many instances, and it is continuing now. 1548. Without an umpire?

Without an umpire; if an umpire has to be called in, it is very difficult to (0.1.)

Continued. 16th March 1882.] Mr. LITTLE.

get one, and he is a very expensive man, because he ought to be a man of standing in his profession as a valuer; if the two valuers cannot agree then we go to the court, and let the court act as ampire.

1520. If the two valuators are to give and take, and are aware of that beforehand, they can arrange to commence with sums which will allow of a good deal of giving and taking?

That is an Irish way of doing it

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1540. Viscount Hatchinson. Have you any experience of arbitrations under the Act of 1870? I um all against arbitrations; they are endless; I have no faith in them.

1541. Irish arbitrations generally result in an extreme demand on each

side, which generally comes to be arranged somewhere about the middle, do they not? Yes, or fail altogether. 1542. Lord Tyrone.] In the case that you speak of on Lord Powerscourt's

property, are the tenants hound to accept the valuation of these two valuators? Lord Powerscourt has acted very liberally. In most of these cases they had leases, and he has allowed the men, although baving leases, to have this arrangement carried out, but then we endorse on the lease, and get it signed by the remant and by his Lordship, what the future rent for the residue of the lease is to be.

1543. Viscount Hatchinson.] You do not break the lease? No. we do not break the lease.

1544. Lord Tyrone.] But in cases where there was no lease there would be nothing binding on the tenant to accept the valuation? No, except that they have agreed to accept it.

1545. Lord Penzance. And that would put them out of court with the Land

Yes, I think they would have no leg to stand upon if they then went into court, when their own valuer had agreed to it.

1546. Chairman.] But there would be no difficulty in making it a legislative provision? No, there could be a deed of submission signed by them to bind them to agree to it if it was necessary.

1547. But without that, supposing it were thought desirable to provide by way of legislation, it would require nothing except an appointment in writing

of the two persons? No, of course not. It would be a most valuable thing if we could get, instead of the sort of haphazard valuation made by the Commissioners, a valuation made

by two valuators, who were professional valuators, and who would take sufficent time to go into the thing as it ought to be gone into, in order to make a detailed and accurate valuation. 1548, You say " professional valuators," could you expect the tenant to find

professional valuator and to pay for him? On Lord Powerscourt's estate they are paying the man they appoint. He

charges them only two guineas a day, but he will do a good many of these moderate small holdings in the one day.

549. I suppose they can consolidate the proceedings ? Yes, they can consolidate, and they club together and pay him, but I think in many cases it would be very hard, and I do not think the tenants could afford it

in very small holdings. 1550. Viscount Hetchisson.] But surely charging so much a day and their clubbing together, and a man doing 150 or 160 acres in a day on an average, that would in the case of what we call "40-acre men" in Ireland, and where they are actually " 40-acre men," means valuing four farms in the day, which

1551. For

Yes,

16th March 1882.7 Mr. LITTLE. i Continued

1551. For the chance of getting their rent reduced for 15 years? Yes. They are hardly to be pitied.

15;2. Chairman.] You can hardly put it on the tenant to appoint a prefessional valuator. He might say, I have confidence in A. B., but he is not a professional valuator : let him value for me ? He might do so, and if there is one professional valuator who is able to colcu-

late the contents of the farm, then you might get a pretty accurate valuation. because the other man is oble to tell per acre what the hand is worth, although he may not be capable of saying how many acres, roods, and perches are of that value, but the landlord's man is able to do that. 1553. Lord Torone. Have you come across many cases of sub-letting:

1554. Has that been taken into consideration before the Suh-Comorission :

No; in one case where o man's rent has been reduced he has the whole holding sub-let, and works as a labourer away. He is a man who has 27 acres; his rent was 16 l., and they reduced it to 14 i 1555. Has he his land suh-let at a profit?

I cannot say; but he has run the farm very much out.

1556. What is your opinion of the effect of the Act, up to the present time. upon the tenants in the south of Ireland? It has disturbed their miods so much that they have all of a sudden found

out that their rent is too high, and they come in wholesale clamouring for reduction; and as regards the younger tenants, men from 25 to 30 years of age, they have neglected their husiness terribly; they have all turned legislators; they meet in the country towns; they go in and spend their day in the country towns meeting together, and, as an old tenant said to me, "You will never see the same rents paid in Ireland again, because all industry is gone out of the country.

1557. Duke of Sowerset.] The Committee were informed by the last witness that in the majority of instances the improvements were made by the tenants;

is that your opinion ? The improvements quo ad the tenant are made by the tenant; he huilds a dwelling-house, which is generally a thatched house, and he has made a number of fences for dividing the lond into convenient fields for his holding; they are of value to the tenant, but they are of no value as to the letting value of the lamit to the landlord. In fact, if the farm fell in to the landlord, the hest thing he could do would be to sweep away the house and the fences to enlarge the fields, and he would get a higher rent for it if let to an adjoining tenant; but as regards the tenants themselves, the improvements are of great convenience to them, and they are made at their own expense, but I have very few cases indeed where tenants have sub-drained their land entirely at their own expense. If they are allowed half the expense they will drain, but if they have to pay the

1558. But that is a common case in England of allowing half the expense by the landlord, is it not?

whole of the expense they will not.

Yes. The landlords I have to do with allow half the expense, or used to allow it, but I do not suppose it will be done now. We used to allow the expense of opening the drains at so much a perch for 4 feet or 3% feet drains, and then the tenant filled them up at his owo expense.

1559. When you speak of the tenants now all becoming politicians, do you mean that they have ceased to make any improvements? I do; not only to make any improvements, but they are not tilling their land

or looking after it. Instead of spending the days that they ought to do on the land, you meet them in the nearest towns three or four days a week. 1560. Marquess of Salisbury.] Then there will be great distress in the

winter? I am afraid there will be a very had prospect of a crop this year if they go on in the way they are going; they are so unsettled in their minds.

1501. I should (0.1.)

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16th March 1882.7 Mr. LITTLE. Continued.

1561. I suppose they hope that they will get a good deal more than the reduction of rent ? They calculate on getting the reduction, and put an exaggerated value on what it is going to do for them. They think if they get a reduction, that

reduction is going to make gentlemen of them, but in comparison with what the increased produce would be if they minded their farms properly, it is a more nothing.

1562. I suppose that exaggeration of theirs is one of the evil results of the entire uncertainty that exists as to the principle guiding the Sub-Commis-

sioners ? Partly that, and partly that the Irish tenants think the rent is everything. They do not coosider that an extra barrel of corn to the acre would be worth

more than any double reduction of rent that they can get, and it rasts with themselves, if they properly cultivated their land. They are all looking to reductions and what I call alms, because that is what virtually they are looking for. 1563. They look to some political machinery or result to give them that

which should come from their own industry? 1504. Lord Tyrone.] You are aware that the Suh-Commissions are likely to

be moved from their present positions in the different counties, are you not? I heard that the same men were not to go the same circuit again, that they would have a different set on each circuit.

1565. Do you coosider it would be unfortunate if men were removed from a district, the locality of which they had learnt both the class of tenant and the

class of land? I think it would be hetter that the same men went again. They would have more knowledge of the different styles of farming in the district, and they would

by degrees learn it at all events. :566. I understood from evidence you gave earlier this morning that you

were against the establishment of a peasant proprietary? I am not against it, hut I have no faith in it. I would be very glad to see it succeed if it would succeed, but I do not believe that it would succeed.

1567. Marquess of Salisbury. You would be glad to see it as an interesting scientific experiment?

1568. Lord Tyrone. Do you consider that the improvement of the purchase clauses, making them workshle, would be an immeose advantage to the land-

Yes, I think it would. Under the present state of things in Ireland I think it would be a great advantage to small proprietors to be able to sell their properties and get away out of the country, and I thick that is what would happen if they

could get anything near the value. It does not so much matter to large proprictors, but as to small men I think there will he a great exodus of them as soon as ever they can sell; at present, of course, it is out of the question. 1569. Viscount Butchinson.] Do you think they will ever be able to sell?

I do not see any light or loophole in the whole thing. 1570. In fact, you think, as we have been told hefore, the tenant is in such a

position under the Act that he would not purchase? I know a case down in the west, and I have it from the solicitor of the landlord in which this happened; the landlord went down, the perish priest was a friend of his, and he asked the parish priest to find out how many years' purchase the tenants would give him for the sale of his property. The parish prices went and consulted them, and came back the uext day and said, "The tenants will give you 12 years' purchase for your estate," but he said, "They do not want to hay it: they know they are much safer under you than they would be under the Government; they can get time from you when they want time; they know

1571, Marquess

they are if they get their rents reduced."

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1571. Marquess of Salisbury.] Do you think they have any views heyond getting their rents reduced, and that they hope that some turn of political fortune may give them even larger advantages than the reduction of their present rents? I think it is very likely, but I could not exactly say.

1572. That has not come under your notice?

It has come under my notice, but I could not say positively that they have that in view: I have no doubt that they have, and that there is a great deal of that; they believe that this is only the beginning, and they have reason to think so. First they got the Act of 1870, now they have got this Act, and they have no reason to despair of getting a worse one yet,

1573. And, therefore, they think that it would be foolish to waste their money in buying the land?

Yes; at all events that they have no desire to go to the Government, as they call it, to be their landlord. They know they would get very short shrift in that case, but they know the landlords will give them time if they want time.

1574. Lord Tyroxe.] Is it not the only hope for landlords who have mortgages on their property that the purchase clauses should be improved?

1575. That is the only hope for landlords who have mortgages on their property?

I really think so. 1576. Do you not consider that a large number of properties which have been

mortgaged will be brought into the Encumbered Estates Court? I do. I have to do with one landlord, the whole of whose margin will disappear when his ronts are disposed of by these Sub-Commissioners : he is very heavily charged.

1577. Marquess of Salisbury. What is the proportion of his margin? It is a very small estate; the rental is only 1,200 t. a year; he has about 300 L a year profit out of it, and I think the whole of that will disappear,

1578, Chairman, Where was that? That is in Wexford. I am agent for the estate, so I know the fact.

1579. Lord Tyrons.] That property will probably be sold in the Encumbered Estates Court for almost nothing you think? I do not suppose if it was sold now it would bring the amount of the

charges on it. 1580. Chairman.] At present, is there practically any sale of estates in Ireland?

No: practically there is no sale. 1581. So that you could not say what it would sell for?

No, I could not form an opinion.

1582. Duke of Marlborough.] The Encumbered Estates Court would not, I suppose, sell a property very much below what it is worth? No, the judges are very reluctant to sacrifice the property; they adjourn the

sales. 1583. In the case of that property, there would he no prospect of finding a

purchaser for it, unless the tenants themselves came forward and purchased, would there? I think all the landlords have to look to is to the tenants, and I do not think the tenants will huv.

1584. You have mentioned some of the difficulties which exist in the way of tenants becoming purchasers of their farms; has it ever occurred to you what may he done to facilitate that process of the tenants becoming owners of their farms

by purchase? It has, and I see a very good letter in "The Times" to-day on the subject, but 16th March 1882. Mr. LITTLE. [Continued.

but I think unless the Government are prepared to lend the whole of the purchase money, I am airaid that the tenants will not buy.

cluste money, I am airaid that the tenants will not buy. 1885. But even in that case, supposing the Government did leud the whole of the purchase money, there would always be that sentimental difficulty to

which you have alluded, that the tenants did not wish to bring themselves under the Government: There would; they are afraid of doing that.

1586. And, in fact, if the Government lent the whole of the purchase money,

1500. And, in race, it the Government into the whole of the purchases money out the sum to be paid in relemption of the purchase money would be as much or more than the reduced rent, would it not?

It would, as originally arranged, but according to the letter in "The Times"

to-day, if the Government would advance the money upon favourable terms, it would not be quite so much as the present rate. 1,887. Still the time during which the repayment would have to go on would

1597. Still the time curing water the repayment would have to go on would be proportionately longer?

It would.

1588. Marquess of Satisbury.] Within your knowledge, are the tenants themselves much encumbered with money lenders? Yes, very much.

158g. Deeply pledged? A great many of them.

150

1500. Do you think that that is increasing?

1500. Do you think that that s increasing:
No, the money lenders and the bank drew the line very sharply about three years ago to get in their money so far as they could. It is not increasing, it has been rather reduced. No one will give them credit now in fact.

1591. The banks will not lend?

Codif. and prevailed to an enormous extent. The Munter Baul, in Kerry, had pushed their pustions by lending small sums on the bills of trunts then, and the feelity of getting this money had was afforded to ignorant mean who makes the same than the same than the same than the same and the lending of the same points o

1.592. How near to the selling value of a farm will a bank lend? I could not say that, but I have known them lend too much. I know a case on Lord Muskerry's estate, down is Limerick, where the National Bank had

lent the tenant more than what the farm would sell for.

1393. Banks must be conducted on very unusual principles that would do
that?

That is the National Bank, at least that is my opinion. If the times get better they may get out of it without loss. 1594. Lord Tyrons.] I lad not the tenant to give security also to them in two

1594. Lord Tyrone.] Ind not the tenant to give security also to them in two solvent tenauts beside himself?
I think he had; he had to give other securities.

1595. Lord Penzance.] Is it the practice of banks in Ireland to lend as banks in England do, upon promissory notes with two sureties?

1596. Marquess of Salisbury.] There were sureties in those cases that you have spoken of, you think?
I think there were.

1507. Viscount Hutchinson.] You do not believe that the extra interest given to the tenant by the Act of 1881 has yet been largely availed of, and you do not hink the banks have begun to advance money upon that?

No, not vet, but I know there will be a wholesale rush as suon as things

settle

16th March 1882.1 Mr. LITTLE. Continued.

settle down; the very first thing they will do will be to rush in to raise money on the increased security they have.

1548. We know the security of 1870 was not a very large one?

It was not, and the banks made a mistake. They did not know the miture of it, and they found out that it was a mistake of theirs to be lending their money on that security, because it was really a security which rested with the landlord. Now it is a bond fide security that they can lend the money on with

1599. I suppose as the bank knows that, the Gombeen men are equally aware Yes

1600. And of course there having been that security, this further security of 1881 makes it very much the interest of people connected with banks and the money-lenders in the towns in times of had seasons to persuade the tenant that

they have the power of claiming their debts ?

1601. Marquess of Salisbury.] What sort of interest does the bank charge? I do not deal myself with the National Bank, but I understand that they vary the interest according to the security.

1602. What is the interest for fair security?

Five per cent, and six per cent, five per cent, when the bill is discounted for three months; if it is renewed it is six per cent, from that time, and if the bank rate rises it goes up.

1603. In the case of the Gombeen men the charges are more?

A great deal more. 1604. Earl of Pembroke and Montgomery.] You said just now that you thought the small landlords would shortly part with their properties; do you not think it more likely that the large landlords will be the people who will get rid of their properties, men whn can afford to sell their properties at a large loss. Would not the small landlords be obliged to hang on and get what rent they can,

because they would not be able to afford to sell except at a ruinous loss? The large landlords would not be pressed by encumbrances in the way the small men are. They can afford to wait. I think they will all become nonresident whether they are large or small, but they are not so pressed to sell as

the poor men are. 1605. Duke of Marlbarough.] In reference to that last question, your opinion is that one of the effects of the present state of the law as regards land will be to

increase non-residence in Ireland? I am quite satisfied of that. All our resident landlords in Wexford who were hunting men have gone away to Cheshire to hunt, and it has been the same in

other counties where they had some amusement in the winter. Now it is all put a stop to. 1606. Would the fect that you alluded to just now of the gentlemen having

left Wexford be owing to the cessation of sport in the country Very much, and losing their interest in the management of their properties.

1607. Notwithstanding that essention of sport there would still be that other inducement to leave the country, namely, the loss of their interest in the mnnageof their properties

I think that will be the effect.

1608. Earl of Pembroke and Montgomery.] I should like to ask you a question about the Arrears Claose. We had it in the evidence of a previous witness, Mr. Godley, that the tenants have been in some instances desirous of making use of the Arrears Clause, and have been unable to obtain the consent of their landlord to do so?

Yes. 1600. You (0.1.)

16th March 1882.1 Mr. LITTLE. Continued.

1609. You have great experience among landlords and the landlords view of the question; I should like to know what, in your opinion, is the reason why

landlords have been unwilling to avail themselves of the Arrears Clause? If a year's rent is advanced by the Government, and the tenant fails to pay it, the landlord has to pay it, and the tenant has to pay, I think, 82 per cent. upon the loan. If the tenant is not able to pay his accruing rent now it is not likely he will pay his accruing rent in future with 84 per cent. on the amount of the loan added to it, and the landlords believe that eventually it is only getting

money out of their own pockets, and that they will have to pay it themselves, 1610. You believe the landlords of Ireland generally have been very unwilling for this reason to make use of it?

In any case of tenants referred to me I have advised the landord not to coter-tain it. Unless the landlord is very hard up indeed it is no use to enable the tenants to borrow money that he will have to pay himself hy-and-hye, because it is pretty certain the tenant will not pay it.

1611. Viscount Hutchinson. That is in Kerry? In other parts too, and in Wexford,

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1612. Have you many holdings under 30 l. in Wexford? A good many; I do not think I have had a case in Wexford, but I have had to do with a good many counties.

The Witcess is directed to withdraw.

Mn. CHARLES UNIACKE TOWNSHEND called in; and Examined, as follows:

1613. Chairman.] You have been largely engaged to the management of landed property in Ireland since 1847, we understand?

1614. You are in the first place an engineer, I think?

1615. Carrying out works of the land improvement? I have been.

1616. That was from 1847 to 1851?

I have.

Yes.

1617. And since 1851 you have been agent in the management of property? 16:8. You live in Dublin, I think?

1619. Have you agencies in different parts of Ireland? I have.

1620. Have you had anything to do with Ulster, as well as other provinces?

1621. Have you had experience of the proceedings of the Courts under the Land Act of last year? I have.

1622. Have you been able to determine to your own satisfaction any

principles upon which the Courts have proceeded in endeavouring to ascertain what was a fair rent? I have heard cases tried in Court, and subsequently accompanied the Commissioners in their perambulations upon the land; one set of Commissioners

informed me that they were not valuators; that they heard evidence in Court and visited the lands to make themselves acquainted with the place and the general

Continued.

16th March 1882.7 general appearance of the farm, but they made no inquiries as valuators would

do. For instance, they had no sparle with them to test the soil and subsoil, and in another Commission the course was entirely different. They, of course, similarly took evidence, but on the following day they went over the ground, and the farmer accompanied them with a spade, and the soil was exemined most minutely, and notes taken in particular by one of the Sub-Commissioners, so that in that way the course taken by the two Sub-Commissions was entirely

1623. Have they proceeded at all upon the principle of the value of produce, and the espacity of the farm and production? It seems to me that the value of produce is not, as a rule, taken into

estimation. They bear evidence and they come to a general conclusion from an inspection, but the matter seems not to be closely gone into in any way. 1624. You have been long acquainted with Irchard; are you aware of the

principles upon which Sir Richard Griffith's valuation was made I am familiar with them.

1625. What was the character of the instructions which those who valued under him received from him?

In the Act passed in 1852 there was a scale of prices of agricultural produce laid down, which was the basis upon which they went; I hold in my hand a copy of his hook of instructions to his valuators, which was prepared with the

greatest care, and is a most precise and interesting book. 1626. Was there a scale of prices in the Act itself?

There was-

1627. And did his instructions refer to that scale, and to the necessity of ascertaining what the farms would produce? His valuators were bound to take that scale of prices as the basis of their

proceeding, and his instructions dealt with the various classes of land; that is whether they were tillage, pasturage, or mountain; they also dealt with houses and house property, and flax mills, and the various kinds of property that in going round should be dealt with-

1628. Viscount Hutchinson.] And the geological character of the land, I виррозе, ая well?

His instructions were that the geological formation of the district should be studied, and that the soil and subsoil, and the underlying rock, should be carefully examined.

1629. Chairman.] Sir Richard Griffith's valuation we have always heard was for taxing purposes, and not for the purpose of settling questions between landlord and tenant; I do not know whether that is your opinion?

It was entirely for the purposes of taxation. 1630. And for the purposes of tavation, I suppose, it did not matter in any

respect whether it was a high valuation or a low one, so that it was uniform? Sir Richard Griffith's efforts were to secure a low valuation, so that there abould be no appeals, and that it should be relatively fair, and with those requirements satisfied, appeals were, to a great extent, avoided.

1631. Is it the case that different opinions have been given about it; that when you came to Ulster the valuation was of the same character there that it was in other parts of Ireland?

The circumstances had changed. Sir Richard Griffith was directed amongst other thiogs to take into consideration the tax tion. He was bound to deduct from his valuation the taxation at the time he made his valuation. The valuation of the southern lands was made at the time of the famine in Ireland when the workhouses were crowded, and when poor rates were 3 s., 4 s., 5 s., and more in the £ Owing to a mistake in the Act, he was bound to deduct the entire of the poor rate as well as of the county rate. There was no mistake as regards the county rate, but there was as regarded the poor rate; the Act should have run, that he was to deduct what the tenant himself was to hear. The other mosety (0.1.)

16th March 1882.7 Mr. TOWNSHEND. Continued. was allowed by the landlord. When they came to Ulster, the poor rates that in

the other provinces had been 4 s. or 5 s. in the £., were perhaps only 1 s. in the £. That was one element.

1632. While the valuation in Ulster was higher?

While the valuation in Ulster was higher, as it is higher and nearer to the letting value.

1633. Was there any other reason with regard to Ulster? Yes, the system of agriculture had improved very much within 20 years.

1634. Was there that amount of difference in the times of valuation?

There was a very large amount of difference. To exactly measure it would not be easy, but owing to the action of the agricultural societies an improved

breed of cattle was introduced into the country, and improved machinery; railways had been constructed and the cross channel transit had been improved The valuation was completed in 1864, and between 1848 and 1864 an enormous change had passed over the country. 1635. Was he obliged to adhere to the same prices?

His guide all through was the Act of Parliament in which the scale of prices was the basis. Perhaps I might be permitted to add that at the time this scale of prices was laid down the prices of meat and hutter were very low lodeed.

Cerea's were somewhat higher in proportion. The position has since heen reversed. Cattle and hutter have been and are at this moment very high. Cereals are not so high; the American import has checked the increase. It has not much affected the price of meat further than this, that it has prevented its rising to an undue amount. Had not the American competition, as it is called, prevailed, meat would probably have been 25 per cent. higher than it is, but the price, as I know, as a consumer and also as a producer, is very good still.

1636. Then the judicial rents which are fixed now will continue for 15 years?

They will.

1637. And what is the power of changing them after that time? I look upon it, and many others with whom I have conversed, look upon it that the reuts now fixed sre fixed, practically, for ever. Perhaps before we pass from Sir Richard Griffith's valuation you would allow me to mention that under one of the clauses in the Act they were bound to omit from consideration all improvements effected for seven years prior to the date of the valuation being made Now that, in the southern counties, takes you back to about the year 1845; so that all improvements, whether effected by landlord or tenant, from 1845 up to the present time, are excluded from Sir Richard Griffith's valuation. He had no power when once the valuation was made to increase the valuation of the land. The valuation was fixed, and is now the same that it was when it was published in 1854. All improvements for seven years prior to the date of the publication were excluded, and are still excluded except in the case of houses. Land improvement is entirely excluded. The section is section 14 of the Act of 1852; it is to be found on page 4 of his instructions.

1638. Then I understand you to say that it is your opinion, speaking at the present time and looking to the increase of price in the various articles of produce, to the development of reilways, and to money laid out by the owners of land upon the land, a valuation like that of Sir Richard Griffith, or anything about that would be unduly low?

Certainly; more particularly in the pastoral lands where the produce has very nearly doubled in value since his valuation was made.

1639. Lord Tyrone.] How much below the fair letting value is it, as a rule,

on the average taken by Griffith's valuation? Sir Richard Griffith stated that his valuation was 25 per cent, under the letting value. That means that to the present valuation you should add 38 per cent. in order to arrive at the fair letting value. That is on an average; hut I

know cases where land is cheaply let at 500 per cent, over Griffith's valuation. 1640. Chairman.]

Over

16th March 1882. Mr. TOWNSHEVO.

1640. Chairman.) What kind of land is that?

Mountain lands, sheep runs.

1641. Lord Twees, | You consider that Sir Richard Griffith's valuation was 33 per cent, below the fair letting value at the time it was struck? Thirty-three per cent, added to Sir Richard Griffith's valuation would average about the fair letting value.

1642. At the time it was struck? That was his dictum.

1643. Duke of Norfolk.] I thought you said 25 per cent.?

His valuation was 25 per cent, below the letting value, which means that 33 per cent, should be added; his value being 25 per cent, helow the actual value, to arrive at the letting value, you must add a third to his valuation to bring it up.

1644. Lord Tyrone.] Would you not put it more clearly in this way: Sir Richard Griffith having arrived at the fair letting value of the land, took off 25 per cent. ?

Practically, that is what it comes to.

1645. And therefore to bring it up to the same amount you would have to add 33 per cent, upon the lower sum?

That is so. 1646. Earl of Pembroke and Montgomery.] I suppose it is a fact that land in Ireland, like land in England, deteriorated a goud deal during the bad seasons

that we have had lately? There has been a temporary (as I hope) deterioration. The fruits of the earth have not been as satisfactory as in other seasons; that is in 1879 and 1880 more particularly; 1881 has been one of the most abundant years we have ever had for some articles of produce, but I do not think that in vecent years grass has the same fattening properties that it had, owing to the undus rainfall and the saturation of the earth, and its not having recovered its normal warmth.

1647. Lord Tyrose.] Was there inducement upon all sides to keep Griffith's valuation low? There was.

1648. In what way?

(0.1.)

In order to avoid appeals; and I should mention that there was no income tax in the earlier years of his valuation; it was of no importance as regarded the State how low it was, and it was of no importance as regarded individuals so long as it was relatively fair; and to avoid any question about its being an undue valuation, he kept it as low as ha could consistently with his instructions. 1649. Chairman.] In Ulster how much below the letting value do you sup-

pose it is? I should say broadly that 10 to 15 per cent. added to Griffith's valuation in Ulster is shout the average letting value.

1650. I should like to ask you about the proceedings before the Land Courts-The landlord is served with an originating notice. We understand the notice simply claims the fixing of a judicial rent. It does not condescend upon the particular rent which is claimed, and it does not state anything more as to the case of the

tenant. What is the difficulty that that places the landlord in The landlord enters the Court in entire ignorance of what the tesant's claim is; he has no statement furnished as regards the improvements which the tenant seeks to claim to have a value put upon and to have deducted from the rent. Under the Act of 1870 the tenant was bound a mouth before his claim could be heard to serve a "statement of claim," giving the particulars of the holding, a detailed statement of the improvements, the value of each improvement, and the date at which it had been executed. The landlord had that for a month heforehand. It was compulsory that he should have it. He then sent out his valuator, or his agent went out with the claim in his hand, and was abla to go

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over the ground and examine the different items, and was prepared in Court to

meet the tenant. He admitted where the claim was fair; he disputed where he ennecived it to be otherwise. 1651. You said just now that the landlard does not know what improvements

the tenant relies upon, and wishes to have their value fixed, in order to deduct them from the rent. How does a tenant begin to show that any rent is paid on the improvements? That question does not arise. The course is this; valuators come upon the

table on hehalf of the tenant and prove what they conceive to be the present fair rent.

1652. Dn yng mean professional valuators for the tenant or unprofessional? I mean all kinds of valuators that can be got together. They are hardly ever professional valuators; they are frequently and generally tenants who have originating untices of their own yet to be heard.

1653. You mean that they are neighbours?

They are neighbours, and as a rule (and I speak fram experience) their valuation is about a third of the present rent. That is the tenants' valuator's estimation of the fair value; that is taking 66 per cent. or two-thirds off. It is most remarkable that whether it be in Antrim or in Tyrune, or in Waterford or Wexford, the proportions are similar.

1654. They begin with that?

Yes; and then the tenant gives a list of his improvements, and I may mention that in order to endeavour to protect themselves the landlords serve notices upon the tenanta to give a detailed statement (such as under the Act of 1870 was compulsary) of their claim to improvements. It has happened to me before now that a statement has been given without any dates, and when the witness has enme upon the table he has proved an entirely different state nf affairs. Not one single item that was in the statement that he gave is proved when he is on the table, but an entirely different set of improvements.

1655. Marquess of Salisbury.] Was he allowed to do that? He is allowed to do that, and he is allowed in increase his claim 30 per cent.

when he is on the table. I have in my hand two statements of claim relating tn the case of Major Stewart, landlord, Eliza Hunter, tenant, county Antrim. The first was for 201 l. 1 s. 6 d. I went with that in my hand over the lands with a person an hehalf of the tenant, who showed me some of the improvements; he was only able to show me some. I then attended in Court, and to the amazement of changel and solicitor and myself, a claim fur 260 l, was preferred. Nu one item in the new claim corresponded with the items in the first.

1656. Chairman.] Was that in addition to or in substitution of the first? In substitution. It was entirely different, and it is very remarkable that

items like these were put in : " 22 perches of ditches levelled at 3 s. 6 d. a perch ; 22 perches of ditches made at 4 s. 6 d." So that they level the ditch on one hand and make it up on the other, and seek to charge the landlord 8 s. a perch therefor, and in fact (se was remarked in Court) by a judicious system of fencing, they may fence the proprietor out of his estate.

1657. Lord Brabourne. What was the result of that case before the Commissioners?

The result of that case was remarkable. The land was let below Griffith's valuation at a moderate rent. I had employed a valuator to go over the land, and he had reduced the rents about 20 per cent, in his valuation, stating that the rent was too high, and that all the improvements were made by the tenant; be put a value upon the improvements and deducted them, my instructions to him having heen, "Value the land as you find it exactly; take a note of what the tenant tells you are his improvements; take a note of their value, and if in Court he can substantiate his claim to them, then they can he deducted." But he tonk the other course (I have his letter here); he said, "Our course is to put a value upon them and deduct them," and he said to me, "I daresay

16th March 1882. Mr. TOWNSHEND Continued.

you will not produce me in Court." The counsel said certainly, " Do not," and he was not produced. We got another valuator who went over the ground ; he was an inspector of the Board of Works, a man of position. I paid him five guiness a day; he reduced the rents perhaps about 6 per cent, and when I subsequently went over the ground with the Sub-Commissioners, one of them said to me, "Your valuator has hardly dealt fairly by you," which I took to mean that our rents were very moderate, in fact, he said so to me, and in giving judgment in that case there was a difference of opinion upon the Beach. The report that I have here states that one of the Commissioners considered that the rent was a fair rent, and should be confirmed. The legal Commissioners said, "We have the landlord's evidence that it should be reduced 3 l. I think we are bound by the evidence," and the other Lay Commissioner voted with him, and the rent was reduced.

1658. By the 3 L ? By the 3 L

cases."

1650. Lord Brabourne. How did they deal with the improvements?

We have no meaos of koowing, but we assume that they conceived that our rent was so low; it had not been raised upon the tenants' improvements; that the tenant had his improvements, and was compensated for them. 1660. Chairman.] You mean that the dissentient Commissioner thought

them low? The Commission held that our rent was low.

1661. Duke of Norfolk.] And no deduction was made for improvements? We do not know.

1662. The 3 l. was not for improvements? The 3 l. may or may not have been for improvements, but the position is the

same. The improvements were proved upon the table in the way I have stated, and we do not know how the Commissioners arrive at a conclusion as to what is a fair rent. 1663. Chairman.] I thought you said just now that they arrived at a con-

clusion by holding that your rent was so moderate that it did not include the improvements? So I suppose.

1664. Marquess of Saliebury.] That is merely an inference of yours? Merely an inference.

1665. Chairman.] When this new schedule was produced, did you claim to have the case adjourned in order that it might be examined? We protested against the case being gone on with, and said that it was a

monstrous thing; but, notwithstanding that, the case was gone on with. 1666. Marquess of Salisbury.] They declined to adjourn?

They did not adjourn. 1667. Chairman.] Did you ask for an adjournment, or merely protest against

its going on? We profested, and said we ought to have time to consider it, because it was a new bill of particulars, but the Court went on with the case-

1668. Viscount Hutchinson.] May I ask you what sort of case it is? The bill of particulars was voluntarily given, and when we found fault with the change of front, the solicitor of the tenant smilingly said, "It is only a compliment our giving it to you at all; we shall give you no more in the other

1669. Duke of Norfolk. There is nothing to prevent such documents as those being handed in intentionally to mislead the landlord, is there? It would appear so.

1670. Earl of Pembroke and Montgomery. | We had it from the last witness that improvements were often made by the tenant which were of value to the tenant (0.1.)

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touant, but which were of no value to the landlord; that is to say, they do not

Continued.

in reality add to the letting value of the land; surely the Court would not make deductions on account of improvements of that sort, would it?

The course taken by the Court is most remarkable. A tensual is upon the table, and, heing asked about his improvements, he seems, "Il made so many percise of fence at so much a perch i recibined so much land,! drained so much." The fences are never included upon the ground; if they may be asked as the most. The fences are never included upon the ground; if they may be asked as a subsequently levelled it, and any causer, the landlerd may be danged with both improvements; there is no check at the present moment.

167:. Chairman.] Do you mean to say that the way they arrive at the value is by taking the cost, and not by taking the value of the thing as it stands?

The remant gives his estimate of what it cost him; the haddout them to the heat of his alkilly meet the case. For instance, in the case I have referred to, some of the improvements that are three clurged at a very high rate for the present day when house is high were made 30 years ago, when labour was less than half what it is now. I am practice do used matters, and I know what prices were. The insidiord can creas-resulting, and must only necleavour to make on the best once he can, and try to anvive at a conclusion as to what the real value and the effect of the improvement is.

1672. Earl of Pembrake and Montgomery.] But if the landlord were to succeed in showing that the improvements claimed by the tenant had made no addition to the letting value of the land, surely the Court would rule these improvements out of court as regards a reduction of rent?

If the landlord, when served with an originating notice, lad a statement of

the claim to be make and last an opportunity of going upon the ground and sensing what the improvements were, he would due be in a position to show steading with the improvement were, he would due be in a position to show he had been as the state of the state of the state of the state of the bodding. In fact, I ben'd to preved in Court that the finess a welfar of terms, and large fields worked birst, but if this small holding upon which he had been as the state of the terms, and large fields worked birst, than if he had not levelful the fences. That first came out upon cross-examination. But those are some of the difficulties that the came out upon cross-examination. But those are some of the difficulties that the state of the state of

1673. Marquess of Salisbury.] You have not appealed in this case, I suppose? No, it is one of the few cases in which I have not appealed.

1674. You have appealed generally? As a rule.

1675. Chairmon.] It would not have been worth your while to appeal in that case, as regards the rent, would it?

No, the costs are so large that we have to think very seriously indeed shout

appealing.

1676. The stake was only 3 %. ?

It was since that decision.

In that one holding there was a question of $3 \, l_*$ and that and another holding were reduced, I suppose, whout $8 \, l_*$ u year altogether, and our costs in fighting the case were not less than $35 \, l_*$

1677. Viscount Hutchinson.] Do you mean hefore the Sais-Commissioners? Yes, we lad to wait from dsy to day with a valuator at five guiness a day; we had a solicitor there; I was there living at an hotel; all these expenses were

going ou, and we had counsel employed; so that the costs came to a very large amount.

1678. Was this case of yours decided hefore the decision of the Chief Commissioners in the Courts at Belfast as to costs?

1679. Then

10/9. 11

16th March 1882.] Mr. TOWNSHEND.

1679. Then you only had to pay your own costs? They were quite enough. I may mention that this is one of the forms

containing a list of the cases at down for trial on the occasion I speak of. There were 58 cases set down for trial; there were 11 cases heard; they occupied three days in hearing; my cases were numbers 10, 11, and 12; number 12 they did not reach. Next to me came about 30 cases of Lord Massareene's, and I shall probably, unless we can induce the Commissioners to alter the order, have to go down myself with the valuators and solicitors to dispose of that one a journed case hefore Lord Massarcone's come on. It is a small holding, but the expense of the defence will be considerable. That is one of the inconveniences to which we are put in addition to having to attend at Court for cases which are ultimately adjourned until the following session; I have had myself to go down with valuators and solicitors , attend some days at Omagli, and on the third day it was discovered that our cases would not be heard : I had then to come back to Dublin. There has been another sees on since, and the cases bave not been heard vet-

SELECT COMMITTEE ON LAND LAW (IRELAND).

1680. Chairman.] Would it oot be a considerable convenience to take one of these lists with 50 cases, and if when you came to the first case you found there were other cases relating to the same estate with which the first case was connected, bring up alongside of it all the cases belonging to the same estate? Yes, I would suggest, for the sake of the Commission itself, that cases on an estate

should be grouped. It will be understood by the Committee at once that when farms are scattered, perhaps 20 miles asunder, the Commissioners lose a great deal of time in driving to these distant places, whereas if the time of the Court were occupied in going over the farms in one district they could visit twice as many in the time, save a great deal of expense and time to all parties, and get through their work much more rapidly.

1681. In this particular list it looks as if there had been some grouping; all Lord Massareene's cases are put together and Mr. Neill's Lord Massareene's tenants probably lodged the originating notices together.

1682. Marquess of Salisbury.] I have got another list in which I find the numbers are in and out; they do not follow consecutively. Between 83 and 84, 145 and 146, are interpolated; that looks like a re-arrangement?

There may have been an application made to the chief Commission for the purpose; I do not know how that is.

1683. Chairman.] When does the statutory period hegin to run; is it from the date of the judgment?

The Act says from the gale day next following the date of the judgment; hut the Commission have made a "first occasion" of about a month or six weeks at the commencement of their session, and all cases lodged during that time and recorded, though not adjudicated upon for 12 months, take effect as from the passing of the Act. The landlord I may mention finds it very difficult to get witnesses at the present time

1684. Do you mean ordinary witnesses or valuators?

There is a difficulty in getting valuators. A new race of valuators has sprang up, and when a valuator gets upon the table he is in fact as it were the landlord; the landlord is in his hands, and what he proves of course binds the landlord. 1685. If he is the landlord's witness?

If he is the landlord's witcess.

1686. Marquess of Salisbury. But he is not in sympathy with the landlord,

you mean? My impression is that the valuators in Ireland are valuing more or less with the times.

1687. With a view to the political feeling out of doors, do you mean? I have spoken to our of the leading valuators upon the subject, who said to me, "by valuing low we shall stand well with the Commissioners." They stand well with the tenantry, and they stand well with the Commissioners. They recognise what Lord Pembroke referred to just now, that there is a time of

temporary depression, and they make use of it. (0.1.)-1688. They 16th March 1882. Mr. TOWNSHEND. Continued.

1688. They value more with a view to their own personal interest than to

the actual yield of the estate? The effect is so as regards the landford. I have cases myself where the most skilled valuators if they had been produced would have lowered our rents considerably helow what the Suh-Commissioners fixed them at.

1680. And they would have done that you think, influenced by a feeling for their own personal popularity?

I think they would have done it in view of the reasons I have mentioned,

1600. Earl of Pembroke and Montgomery. Partly on account of the deterioration of the land, do you mean? The deterioration of the land would have some effect, but if you speak with

them they will admit that that is temporary; we do not look upon it that the seasons have altogether changed in Ireland. 1601. Marquess of Salisbury. That is not, I understand, the only or the

chief motive, but a desire of standing well with the Commissioners and with the tenants ? Undoubtedly so; but of course there are some exceptions.

1502. We have had it in evidence that many of the new race of valuators are acting or retired schoolmasters; does that come within your knowledge? I know that that is so as to the valuators on behalf of the teaants.

1693. Viscount Hutchinson.] Then there is this in it as well, is there notthat, supposing the depression to exist, which of course is always a moot question, it is not the valuator's actual business to take into consideration the fact that the rent is to he fixed for 15 years or in perpetuity; his hasiness is to value the land as he finds it?

To value the land as he finds it. 1604. That would be another factor, supposing a depression to exist? The chairman of the county of Waterford, when he had cases in which I was concerned before him, said, "You must hear in mind that it is for the

future you are fixing the rent, and must not judge altogether by the present condition of things. 1095. That happened in Waterford before the county court judge?

1696. Earl of Pembroke and Montgomery. Do you know on what principle these valuators value at all? My own impression is that they value very much upon the lines of what they would be willing to give for a farm themselves, but the valuators that are employed are putting a considerably reduced valuation upon the land now, compared with what they would have done three years ago.

1697. Considerably helow what a solvent tenant would give for it? Certainly, if the country were in a peaceful state. At the rents now being fixed enormous sums will be paid for tenant right.

1608. Chairman.] Have these valuators that are called professional any special training, or do they belong to any special body who pronounce them capable, or does any one who chooses call himself a valuator?

There are certain gentlemen who have been valuators for years, but there is another class sprung up of late that call themselves valuators.

1699. And do they get five guiness a day? They get from two to five guineas a day, according to the class of man;

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hat if you have a large holding and want a good class of valuators, four to five guiacas a day is the charge. 1700. Are the class of valuators who possess the confidence of owners of

land the new class or the old? The old class. 1701. And

16th March 1882.] Mr. TOWNSHEND.

1701. And is there any difficulty in getting one of them to value a holding for the purpose of one of these cases?

There is no difficulty in getting them to value; they will take an engagement to value.

1702. Do your observations, that you cannot place reliance upon their valuations, apply to them riso?

My observation goes to this extent, that the Intels are being valued lower than their actual worth, and I can prove it; I have a case myself, in the southers cominy in which a form is reacted at 192.6. a year; the tenant has mode no improvements (the final statutually good) of-thret data holding a loous, towards which be got an allowance, that expenditure being about 150.1; I can get him for his goodful of that firms, at momenta, 190.1; I can get have the firm and be reduced the vant of it dahlough that large sum can be got for the intents in it by about 15 per cent

1703. That is not a case that came into Court, is it? That is a case that is to come before the Courts.

1704. Lord Tyrone.] As regards these valuntors, have you ever heard that they have stated that they valued low in order to get the ear of the Sub-Commissioners? Yes.

1705. And that if they had put the fair value on, the Sub-Commissioners would not have listened to their value at all?

That the Sub-Commissioners would have more confidence in them if they

rained low.

1706. Therefore it was better for the landlord to take a small loss than to

risk the probability of a much greater one?

The conclusion that is forced upon me is almost to dispense with valuators, more particularly where rents have not been altered for 20 years or upwards,

and where the tenants have lived and thriven.

1707. Have not the Sub-Commissioners stated that if the landlord does not produce a valuator they will take the valuation of the tenant's valuator?

That has been stated; where no evidence was oftered, for instance, by the

That has been stated; where no evidence was current, for instance, by the agent as regards his knowledge for 23 years that the renth also been unailered, that the tenants were comfortably off, and that they had given portions to the daughters, and so on, I look upon that no evidence of the strongest kind; hat in the case to which your Lordship refers, there was no evidence offered on the the landlord's idde.

1701. Lock Breksurse, In the case you have just mentioned, where you could go not I to the tenustription of certain form, could you not get that some because the element of competition would be introduced; is not the reason why you could get to large a sum that the tenant would have that element of competition in getting has tenuar right, that the landlesd would not have in letting has land. "The reason is that the land as periodarly good pattern, and there is a mutual

desire to get an extension.

1709. There would be competition, then, would there not?

There would be competition for a good farm, but I can get the 900 L referred to without competition. 1710. When the valuator valued, would he not take into consideration the

fact that the land would not be worth so much to the landlord, because he could not get so much?

The sound of the land would being available now beyond the landlord's rent shows that

nor get so macur. The sum of 900 L being available now beyond the landlord's rent shows that the rent paid to the landlord is a moderate one.

1711. But the valuator is valuing with a knowledge of what legislation has lartedy taken place, and may possibly take place if the same principles are carried out. Therefore tashing all these elements into consideration, is it so tikely ten it be may, without being actuated by any very great elesier for popularity, think, that the letting of a farm, for which no fair competition comes into the flexibility of the contract of the contract of the flexibility of the flexibility of the contract of the flexibility of the contract of the flexibility of the contract of the flexibility of the flexibility of the contract of the flexibility of the contract of the flexibility of the flexibi

16th March 1882.] Mr. Townsmenn. [Continued.

something very different to the selling of a tenant right in which it does come

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something very different to the selling of a tonast right in which it does come in?

I cannot agree with that view. This is a question of a faron naturally good. If cannot agree to the landlord, and have been the property of the landlord, and have been

in no way conferred upon it by the tenant; he got the farm for nothing, and can get a large amount by quitting it. 1712. Viscount Hutchinson.] But the fact of lowering this rent will very

likely send your tenant right up to 1,200 L: The probability is, if lowered, that the purchase money would be 1,200 L or

1713. Lord Brabesrue.] Then it comes to this, that what you take out of the landlord, by the reduction of rent, you practically put into the pocket of the

It does. I look upon it that while rents are now heing lowered 25 per cent, and the tenants hold that the budlords have been depriving them of their

and the tenants now that the bisidories have been depriving them of their property to that extent, that the position of the landfords in Ireland will yet be justified to this extent, that the tenant right that will be paid with these perpetuity tenures at those reduced enter will be enormous.

1714. Viscount Hutchinson.] Let me ask you one question which arises out

of that. Of course it is a question of fixing a specified value of a thing that has come under your notice; what does fixing a specified value actually mean; does it mean that that is to be the outside price the teamt is toget from anybody in the market, or merely the outside price the teamt is to get from the landford?

That means, as I understand it, that if the tenant is quitting, the landlord has the pre-emption at that price.

1715. But he may go into the market and get what he pleases, may he not, supposing the landlord does not wish to buy?
Yes, but that is the tenant right of the holding; and the landlord could claim

it at that price if the successor wanted to sell plus any further improvements effected since the tensor's interest was fixed. 1716. So that the tenant in the open market would huy at his peril at a

competition price?

Unless there were further improvements executed.

1717. Chairman.] Is there any arrangement for facilitating the ascertainment of the measurement of the contents of the land by maps or surveys, or is there anything affixed to the order of the Court?

That is an additional difficulty that we about under. The originating ontice specieties the area of the bolding in states, measure the present work the poor law valuation. The first thing to be determined in Court is the area. It coessionally happens that the area is 6 oper cent. wrong. I have had myself cases in ecolosed mountain land where the area was verying to that extent in acres, not in value. I had cases with at meed, and the reser were In search as the contract of the contract of

1718. One can understand a tenant after all not knowing much-about the contents, hecause I suppose he has no access to the Ordnance map, and no one to measure it for him; but what is the difficulty when the landlord has to meet the case, of his ascertaining, as a matter of perfect exactitude, from the Ordnance map, what the contents of the holdings are?

He has to send down upon the ground and have it mapped in upon the Ordnanca sheet; then he can do it.

1719. We were told by a witness here that the Ordnance map might be relied

1719. We would not a sunsess here that the Ordnance map might be relied upon for all the divisions of a farm?

The Ordnance map has most of the field houndaries upon it, but then it does not define between distinct farms; and when you are in a neighbourhood of

1720. One

moontains, the enclosed lands are not marked at all.

16th March 1882.1 Mr. Townsmind. Continued.

4720. One can understand the difficulty in the case of mountain land, but where that did not exist, would there be any difficulty in the bailiff, or anybody who knows the estate, tracing upon the Ordnance man the boundaries of the hold ing, and then a skilled person working it out from the Ordnance map by scale? that is what has to be done, but the labour of that at a time like this is enormons

1721. I daresay it is, but it is a labour that someone must do, and you can hardly expect the tenant to do it; he would not have the means or skill of

doing it ? The schoolmasters who were referred to just now as valuators are as a rule surveyors, and with the Ordnance map in their bands they could very readily do it.

1722. But would the landlords trust to that; would they be satisfied with it? If that could be lodged and seen, it could be checked, and it would facilitate the business of the Court greatly.

1723. But what would you propose as a cheap and practicable record of the quantities of the farm for the future?

I look upon it that unless this question of mapping is taken into consideration, the confusion for the future will be very serious. When the 15 year periods terminate there will be no maps to show exactly the boundaries of the holdings as they stood.

1724. Suppose this to happen with this right of free sale, suppose there are three conterminous holdings now, and the owner of one of the three purchases the other two; there have been separate statutory periods with regard to each of the three, and having purchased the three, he consolidates them to a greater or less extent, ohliterates the fences and so on, then the statutory periods will run out at different times, and what means will there he of finding out which is

None, according to the present want of system. What I would urge would be that a map should be prepared, let it be at the general expense of landlord and tenant, or in such a way as may be devised and lodged in Court with the originating notice, and with them the statement of claim as to improvements effected

1725. Are not we going a little too fast about that; you say a map prepared at the joiot expense of landlord and tenunt, and lodged with the originating actice; the landlord and tennet are not at that time io a state to do anything at their joint expense, are they?

No; let the Court have the power of deciding as to the payment for the map; let the tream be bound to prepare the map and the landlord have power to check it. Of course I would limit the extent to which you would go, but it will economise matters for the tenant and for the landlord to buve a map. I bave brought one of the Ordnance sheets with me (producing the same).

1726. Is that a six-inch scale?

This is upon a scale of six inches to the mile. The fields are all marked here, and the holdings can be readily marked out. The expense would be only a few shillings, and the saving of litigation in the future would be enormous; that is the way in which Griffith's valuation was worked out for all over Ireland.

1727. Duke of Marlborough.] Are these all correct and reliable boundaries? As a rule they are; it is a marvellously correct survey as a rule.

1728. Chairman. But supposing, before the Sub-Commission decided the case, they had someone attached to their Sub-Commission who could make out a

tracing from the Ordnance Survey, nod that they appended that to their order as the particulars of what they had adjudicated upon, would not that meet the That would very much meet the difficulty; when an appeal is lodged against

the decision of the Sub-Commission the Chief Commissioners write to the laudlord at once for a map of the holding, and it is then lodged by him. I have lodged such maps myself, and that so far gets over the difficulty. They are a Court of Record, and that map should be preserved and would be of great value hereafter, but even in that case the improvements for which credit has been

given to the tenant are not marked. 1720. We (0.1.)

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16th March 1882.7 Mr. TOWNSHEND, [Continued.

1729. We understand that there is no record kept of the improvements which are proved before the Sub-Commission to have been made by the tenants; that is so, is it not?

The Sub-Commissioners take notes of the evidence as it is being offered, such as so many perches of fence, and an many perches of drains; but there is no actual record where those fences or where those drains may be, and it is

impossible to say whether those fences may be allowed for a second time. 1730. Would there be anything to prevent the making of a fence to be

allowed for as an improvement, and in the next judicial period the levelling of that fence as another improvement? That is not alone possible, but probable.

1731. Earl of Pembroke and Montgomery.] The tenant would not be able to claim on both, would be?

I see nothing to prevent it at different periods.

1732. Chairman.] What could prevent it; at present he would say, and say truly, "I have made a certain number of perches of fencing, at so much a perch. You say the Commissioners would allow for that. In the course of the judicial period of 15 years he levels it, and at the end of the 15 years he would say, and say truly, "I have levelled down so many perches of fence, and I claim for that"? That is the process I referred to as fencing the landlord out of his estate in

course of time. 1733. Earl of Pembroke and Montgomery.] But surely he would lose the amount of rent taken off on account of the fences that had been put up. The value of that, whatever it was, would be added to the rent at the end of 15 years if it was pulled down?

No; the form is surveyed as a whole, and, whether it is covered with fences, or whether he has got only a few fences on the whole thing, it is all the same.

1734. Lord Tyrone.] There being no record kept, how would the Commissigners know in 15 years on what they had reduced the reat?

They could not know. That is one of the reasons why I urge so strongly that a map should be supplied. In common justice it ought to be so. There should be a record kept of the lands improved. For instance, the Board of Works lend money to landlords to improve their estates; the landlord prepares his maps and plans, submits them to the Board; the Board send out an inspector; and every fence is marked out, every field to be drained is coloured. and the direction in which the drains are to be run are all marked. The Board have the record of that, and we can get that now, and I am in several instances getting it, to show the improvements made by the landlord, else we might be charged upon our own works. I do not see why, with such a very serious question as this is for the landlords in the future, a fair system of mapping could not be devised, and some record kept.

1735. Do you not think it is important to the tenant as well? I think it is most important to both parties.

1736. Duke of Marlborough.] Do you think it would be possible to effect such a system with regard to the 75,000 cases that are lodged, and in prospect of those which are yet to come before the Commissioners?

I think if they progress at the rate at which they are now progressing, that anything would he possible in the way of mapping.

1737. You mean that the time being occapied now would allow of anything in the way of mapping being done? I think so.

1718. But it would indefinitely enlarge the time necessary to settle all these eases, would it not?

No; that would be a proceeding on the part of the landlord or tenant, as the duty was thrust upon them. The Commission would not be delayed; in fact, time would be saved by the Commission, because disputes as between landlord and tenant in Court would be very much got over.

1739. Would

16th March 1882.7 Mr. Townshenn. Continued.

1739. Would you have the plans prepared, then, before the case comes on for hearing Yes. Take the case of a tenant paying 200 l. or 300 l. a year rent, or even

as low as 50 l. a year rent, he can get for 2 s. 6 d. the Ordnance sheet, and for a few shillings a surveyor will mark his fences upon it, and colour the fields drained; and if that is lodged in Court, that is a record that will speak in 15 years. I know nothing else that will do so. The records of the chairman will not speak as regards what particular fences were allowed for. True, that will show that certain fences were allowed for; but what fences were they, or what drains were they?

1740. At present there is the additional difficulty of saying what is the character of the improvements, in the fact that the Commissioners, in giving their decisions, make no statement whatever us to the value at which they assess the improvements?

We know nothing whatever of the course taken by the Commissioners.

1741. Chairman. Do you consider that it would materially assist in bringing about settlements out of Court if the principles on which the Sub-Commissioners were proceeding were known?

It would conduce very largely to settlement out of Court. A great many of us are anxious to settle out of Court, but we do not know the lines upon which they are acting, and we have appealed, in order to endeavour to urrive at a conclusion, and we hope to obtain some further insight into the system in that way, but even there we are met with difficulties. The Chief Commission have a valuator attached to their Court. They have Mr. Gray now, who is a very well-known gentleman, and in whom we all have confidence. He goes down and he values the farm, and he gives a report to the Commissioners. We have not the adventage of cross-examining him or being perfectly certain that he has seen the right farm; mistakes of that sort have occurred before now.

1742. What instructions has he which enable him to find out the right I do not mean to say that Mr. Gray has ever visited the wrong farm, but others have.

1743. You said just now that it is part of the terms of an appeal that the landlord lodges the man?

1744. Surely that is supplied to Mr. Gray : That is supplied to Mr. Gray.

1745. That must keep him right?

That would keep him right, but we never have an opportunity of cross-

(0.1.)

examining him; I will give your Lordship an instance in which no map, so far as either landlord or tenant is concerned, is supplied, and where the valuator goes upon the land and makes a return to the county chairman. 1746. Before you pass from Mr. Gray, I want to know your view ahout him. You say there is no opportunity of cross-examining him; but it is not usual,

where a Court refers to an expert for its own information, to expose the expert to cross-examination. The Court selects a man that it has confidence in and who is supposed to be free from bias towards either party, and if he fulfils those conditions the Court thinks it is the hest thing it can do to take his unbiassed opinion; it is not usual to cross-examine a person of that kind? As far as his unhiassed opinion is concerned, I have not a word to say, but he

may not have the full information as regards improvements, and as regards landlord's or tenant's outlay. 1747. First we will speak as regards improvements. What do you under-

stand to be the duties assigned to Mr. Gray? I would rather not go into Mr. Gray's duties, because I am in ignorance as to what his instructions are; but perhaps I might give an exemplification from a case of the Court of the Chairman of the county of Waterford. 1748. What

[Continued. 16th March 1882.7 Mr. TOWNSHEND.

1748. What would that be to show?

The defect I speak of as regards a valuator attached to the Court going out upon the ground without a map from either laudlord or tenant, and coming to a conclusion based upon imperfect information.

1749. It is better we should understand how that arose in the county courts. I think we have heard that in the county court the judge himself does not go upon the land; is that so?

He does not go upon the land.

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1750. And the judge we have understood, sends some valuer or surveyor upon the land to see it and report to him; is that so?

The chairman of the county of Waterford does so. 1751. Is it peculiar to him, or does that apply to other county courts too? I understand the chairman of the county Mayo does not do so.

1752. What does he do? He adjudicates upon evidence.

1753. He takes the evidence alone?

He takes the evidence alone as he hears it in Court, so I am informed and believe.

1754. Then you were referring to a case in Waterford where the chairman sends some one out to see the land?

1745. What is your experience about that? I received last night from Waterford this copy of the report of the valuator in a case which I was interested in in the county of Waterford.

1756. Lord Tyrone.] Whose valuator was it?

The county court chairman's valuator; he reports, first of all, particularly as to the area of the farm and the amount of the old rent. In this case it was 260 l. 8 s., fixed in the year 1814, and it has not varied since. He reports as to the elevation, uspect, climate, roads, fences, and the soil. He says as to the soil, "On the lower division, above and below the house, a good deep clay loam prevails; hut proceeding upwards the soll becomes poor, with moory patches intervening; also a good deal of waste and intractable land is met with on parts of the farm-buildings. 1. Slated, house and extensive offices all one story high. Thatched, offices, the whole in pretty good order, and upwards of 40 years built; other improvements visible. Upwards of 60 acres have lately been thoroughly drained and fenced by the landlord under the provisions of the Land Improvement Act; other improvements alleged, circumstances of draining and subsoiling. The expenditure of the landlord in this case of 300 l. under the Land Improvement Act has doubtless laid the foundation of a considerably enhanced value of the farm in future years, should the tenant fully avail himself of it hy breaking up the surface and manuring, or otherwise top-dressing heavily, without hreaking up; hut in my estimate of value I have not taken this expenditure into account, as the existing rent is evidently much too high. The holding is well farmed, and I have seldom seen land better laid down with grass seeds than is to be met with here. Having gone carefully over the property, I consider a fair live-and-let-live rent for the farm would be 210 L a year. The huildings having been erected by the predecessor of the present tenant; I have not taken them into account." Now what I object to there is, first of all, he has stated the expenditure to he 300 l. Almost 700 l. was so expended. He further states that he excludes the value of the landlord's expenditure from consideration as regards the future rent, because the rent that had been paid was high; and he then constitutes himself the judge as to whom the huldings belong, the fact being that we claim the buildings, and they are ours; so that in three points that gentleman, doing his hest, has fallen into error.

1757. What has happened in that case; has it come before the Court? Not yet; we have appealed.

1758. I thought you said it had not come hefore the Court?

Ιt

16th March 1882.] Mr. TOWNSHEND.

It has come before the quarter sessions, the chairman's court, and he has adopted his valuator's report. Our appeal has not yet been heard.

1759. He has adopted that valuation: He has adopted that valuation.

rie nas auopteu that vantation.

1760. Viscount Hutchinson.] Did you bring out those other facts in evidence, that the real expenditure was 800 l., and that the hulldlags helonged to you? I did.

1761. And did you establish the first successfully that the buildings were yours?

I established the fact that the expenditure had been made, and the chairman contested the question about the improvements.

1762. He held against you upon that particular point? He did.

1763. Chairman.] However, that case is under appeal?
That case is under appeal. The reason I mentioned it to your Lordships is this: it shows the system. The valuator goes down behind one's back, without proper information.

1764. That is the system in the county court?
That is the system in the county court referred to, and I dread something of

the same kind may prevail in the superior court entirely uninteotionally.

1765. Lord Tyrone.] Have you ever heard an instance where a part of the tenant's land has been hidden away from the view of the tenant's valuator?

I have. A gentleman can be produced here from whom the teoant sought to conceal the best part of his land, having previously concealed it from his own valuator.

1766. Chárman, I You spoke just now about the business of the Court, and we have heard a good dead of eridence about the block is the Court. It has been suggested that that might be met in this way: that where an originating monic was served, the tomat should be enilled upon to men a valuator, the landlored another, and if they could not appoint an uniper for the way of the country of the coun

geutlemao, well known to most of the noblemeo sittiog here, who tried an arbitration in that way, and the rent fixed upon was lower than the tenant had offered him before he entered upon the valuation. I nm a little uneasy shout the result of that system.

1767. Was there an umpire io that case, or did the two valuators agree?
There was no unpire.

1768. Appointed by whom?

By the two men before they entered upon their duties.

1769. Have you considered the question of the Peasant Proprietary Clauses in the Act?

We are looking to them very anxiously in Ireland now as the one solution of the great difficulty that presses upon us.

1770. Has it come under your notice that those clauses have been acted upon in any case you know of?

Hardly at all.

1771. Have you had any case yourself?

I have hud no case myself; on the contrary, when I have spoken with some tenants upon the subject, they have said to me, "The Government are hard tenants upon the subject, they have said to me, "The Government are hard tenants upon and we would rather have our rent reduced, and have the landlord

testmasters, and we would rather have our ten reduced, and have to deal with. If the times were had we could get a reduction from him." That was said to me on the ground, speaking with tenants.

(0.1.) X 4 1772. To

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16th Merch 1882.] Mr. TOWNSHEND. [Continued.

1772. To what do you attribute the fact that those clauses have not been acted upon as yet; in it that there has not been time, or that there is not the

inclination?

I think that where the tenants have gone into court they are so busily occu-

liming that where the tenants have gone into court may are so using occupied with having their rents reduced, that they think of very little else.

1773. Viscount Hutchinson.] Do yoù believe that they look upon this not only possible, but almost certain reduction of rent, with a view to better terms of purchase in the future, or radier, with a view to remaining as they are?

My own movression is, that they sould seek to have their rents reluced now

My own impression is, that they would seek to have their rents reduced now as much as possible, and rather trust to the chapter of accidents, unless some forther inducement be held out.

1774. Chairman.] Do you think the tenants will be disposed to make any actual payment down as part of the terms of purchase?

I think the thrifty classes would, but the proportion of tenants in Ireland unable to do so is very large.

1755. If any arrangement could be made by which the actual payment at present made by the tenant from year to year, which is now called rent, should be made lower, and be could be converted into a purchaser, do you consider that that would meet with favour in their eyes, and that they would adopt any plan of that kind?

I think that there is a large proportion of tenants in Ireland whose wents are so low that they do not expect the Courts could do much for them, and I think that they would enter into such a scheme, and they would that fellowing. There is another number who consider their rests are to high and would seek to have them reduced through the Court, and then go in for the further reduction and become pensant propriition.

1776. Lord Tyrone. The purchase clauses, as they are at present fiamed, you think entirely unworkable, do you?

Yes, there is no inducement to the tenants to go in; there is no present gain to them hy it.

1777. I think I understood you to say just now that the only hope for u solution of the difficulty was in having the purchase clauses enlarged?

That it may impression. If money were lent at 42 per cone, for 80 years, which is the equivalent of money at 6 per cone, for 30 years, mat as 30 years purchase would give a reduction of reat of some 13 or 14 per cent. I think it at 14 per cent. Then many proprietors are prepared to the occurrly for thefourth a reduction of about 14 per cent. in the rent, and that I think would be about the greatest inducement that could be leided out to a tensate to corre upon this scheme.

greatest inducement that could be held out to a tenant to enter upon this scheme. 1778. Viscount Hutchiason.] Did you say that you thought a large portion of the proprietors would be willing to do that? I did not say a large proportion; I think the number is increasing; I think

that a great many proprietors in Ireland feel very uneasy as regards the future. Each 10 years there is a further size taken off their property, and I know that many are of opinion that it would be well to secure themselves in time. 1:70. You think the state of affairs is so bad that there are Irish proprietors

who would be willing to leave a quarter of the purchase money out on second murrage at 4 per ceut? I know it.

1780. Lord Tyrone.] Do you think that would be secure?

The one security is this, that the Government would built the first charge and will recover their debt if anything can be recovered in Ireland, and every pound paid to them is so much increased security to the second incombrance, and in that way I now think that there is security; at all events the position would be better than the present state of affairs, than which anything can hairly be worse.

than the present state of affairs, than which anything can hardly he worse.

1781. Would the chances of sale be improved by a title being given, through
the Landed Estates Court?

[Continued.

If the title could he simplified and cheapened it would help immensely. That was one great reason why the Church Temporalities Commissioners were able to sell the church land with such great rapidity. They had a title vested in themselves, and had no expeose of proving a title, and they sold very rapidly.

1782. Have you any suggestion to make about head rents or tithe reat-charge? A long exceed of land in Ireland is beld subject to bead rents, and a propeter cannot sell direct to the occupying tennats where he holds in that way, It would tend to facilities as lie inmeasely if compulsory powers were taken to purchase up the head reat. The by rent-charge is also a difficulty in the way, and power soloid he taken to purchase it up as well.

1783. I think I understood you to say just now that the feeling of the handlord, as regards the future, was very bad?

That you was available to the future was very bad?

They ore very anxious indeed, both as regards further inroads on their property in the future and there being no guarantee as regards the regular payment of judicial reuts in the measurine.

1784. Viscount Hatchinson, With regard to what you were saying just now, you seem to think thet the texaits are looking to some reduction ander the Sub-Commissioners, and then some further reduction in the way of the rest charge, which they would have to pay in view of becoming peasant proprietors; we have been told on good sutherity that the practical effect of the Act of 1881 is remove every puriouser from the market but now; is that your opinion?

Yes. 1785. Then how are we to arrive at the number of years' purchase which is to be the fair price for the land henceforth \hat{r}

to set the fair price for the fand sencessorts?

I suppose the landlord must make the best terms he can with his tenants, if there is no competition.

1786. So that whether the rent is high or whether the rent is low, the rate of purchase depends practically upon what the tenant is willing to give?
Certainly. The one difficulty in the way is the question of price. My advice to greatlemen that I am acting as agent for is, sell when you can get a

fair price.

1787. Do you see anything to lead you to believe that there will ever be any

competition to regulate the price?

No; certainly not. I cannot conceive any person buying an estate in Ireland now.

1788. Except the tenant?

Except the occupier. The influence of the landlord is gone and the prestige except with the overship of an extate is all some.

connected with the ownership of an estate is all gone.

1789. Marquess of Salisbury.] You do not think there is any prespect of landlords laying out money on their estates in Ireland in the future.

Certainly not. I see no inducement whatever to a landlord, except under very special circumstances indeed to key out money. I think there is an inducement to the tenant; because, while he may be the thinkedf, the probability is that he will get a reduction of his rent for the money he lays out.

1970. There is no probability of a landlord in future having much inducement to perform those duties which are associated with the position of a landlord in this country.

No. The Act of 1870 tended in that direction, and I suppose it, checked improvements to the extent of 3,000 l. a year that were being laid out by me. The Act of 1881 has completely dried up those sources.

1701. And therefore the landlord is for all public purposes only a rent-charger?
Only a rent-charger, at a rent fixed by a third party.

1792. It would be a more wholesome state of things for properties with heavy rent-charges over them all over Ireland that the rent-charges should come to a termination at a fixed period, and that property; and the property; the property is the whole revenue of their property;

Your Lordship refers to the occupiers ? Y
1793. Yes : 16th March 1882. Mr. TOWNSHEND. Continued.

1793. Yes? Certainly.

1704. And that the title should be simplified, and that the occupier become the landlord?

That is the only hope I see of an early settlement before the country.

1795. Duke of Somerset.] You said the only hope for Ireland, you thought, was for the whole of the occupiers to become the owners of the property, as I

understood you? I should say that it is tending in that direction rapidly.

1706. Supposing a tenant purchases his holding, he becomes the landowner: then supposing he wishes, or is obliged by ill health or any other circumstance,

to leave the country and to let the holding, then he loses the property of his holding, and falls into the condition that a landlord in Ireland is now iu. If I am asked to express an opinion upon that question, I rather think that in 50 years there will be another land question in Ireland, more particularly in the poverty-stricken province of Connaught, which will be more serious than

the present one, that is that rack-rents of the most alarming kinds will probably he found fixed by the landowners of that day upon "future tenants," who will have no redress under the Act of 1881. 1707. Viscount Hutchinson. The position of the tenant in that case, supposing

a new class of landlord were created, would be different, in that he would be the future tenant? He would at the full rent exacted from him.

1798. Lord Brabourne.] Your opinion goes to this, that the operation of the Act has been to drive capital from Ireland, and to prevent the likelikood of its being employed, or, at all events, applied to the development of the resources of Irish land?

That is my experience.

1799. Duke of Marlborough.] Do I understand you to say, in reference to the question put to you by the noble Dake on my right, that in the event of an occupying tenant becoming the owner by purchase of his holding, and if he did not choose to continue to occupy the whole of that holding, but let it out in small portions, he could then let it out at rack rents, uncontrolled by the existing Act of Parliament?

Undoubtedly when he has become the owner, free from any claim of the Government, he can do so.

1800. Earl of Pembroke and Montgomery.] The present Act, I believe, makes a special provision by which the present tenants will have future tenants, and the landlord will be able to exact from them whatever rent he likes?

When they become owners they may do so.

1801. Duke of Marthorough.] In that form, you think, if the present land question is solved, there will be another in the way of a new tenant proprietor created ?

I fully expect so to a very large extent.

1802. Lord Tyrone.] What is your opinion of the effect of the Act upon the Irish people generally?

Excluding Ulster, which is a district entirely different to the rest of Ireland, it has excited the people to the most remarkable extent as against the landed interest, and so far it has in no way quieted matters; on the contrary, I think the tendency is otherwise, more particularly in such counties as Tipperary, which is very bad indeed at the present moment.

1803. Has it prompted idleness, as one of the witnesses hefore gave us to understand?

I am sorry to say that the general conclusion is that it has done so. I made a calculation the other day; in every one of the Sub-Commission Courts there are 250 or 300 farmers attending; there are twelve of those Courts sitting, say three days a week, which means 3,000 farmers for those days looking after litigation instead of looking after their farms.

16th March 1882.] Mr. TOWNSHEND.

1804. What is your experience as regards the adjudication of the Commissioners upon a farm in good order and a farm run out?

Honors upon a farm in good order and a farm run out?

I had a case in Cavan lately, before the chairman of the county, a farm

in good condition was reduced very little indeed; a firm in the first reduced in the labely worked, was reduced about 90 per cent.; the decision was a just one; the rent upon the good farm was low, but the conclusion that the people have come to is fithis: in order to have your rest reduced, have your land looking hally, and exhaust it before the Commissioners come out; and the report I have received from that estite is that the trustain have commenced operations.

1805. Marquess of Salisbury.] Commenced to deteriorate their farms, do you mean?

Commenced to plough with the view of overgrouping and taking a modulate.

Commenced to plough with the view of overcropping and taking a good deal out of the soil, and we contemplate that in the future, towards the end of the 15 years' statutory period preparations will be made to have the farms in a good condition for valuing.

1806. Earl of Pembroke and Montgomery.] Do not counsel for the landlords ever object to statutory terms being granted to farms in such a condition as that? They may object, but there is no power to prevent it.

1807. Lord Twrose.] Have you any experience of a chairman raising the rest

when he has been asked to fix a fair rent?

I have recent experience of a case in which we expected the rents would have

Account a present of the second of the secon

1808. Marquess of Salisbury.] Has that decision hung up all this time? The decision is being given this week. It was last week the case was heard.

1809. Then after they had up made their minds as to what the right value was, they asked you whether you wished it or not?

After they had made up their minds that they must increase the reot, the chairman then said, "Is it the wish of the landlords that these rents should he raised?"

1810. Does he in analogous cases of giving up rights, ask the tenant whether

it is his wish that it should be reduced?

I have not heard of that, but that is what one would expect if the principle were carried out fairly.

1811. Lord Tyrone. What is your opinion of the effect on the country generally of the Land Bill, as regards collecting rents?

The sine was very but here: the Land Act was passed, and in the southern counties it is were more. I have case suppril where for nonly two yours not a fraction of rest has been received, in our when the property two yours not a fraction of rest has been received, in our when the counties, they are living with their french. The tensite had their farms at low rems. We toke proceedings and sold out some of the forms. Our means are exhausted, but we set the sold out some of the forms. Our means are exhausted, but we set the sold of the counties, but we can get no cert. The tensits, owing to the passing of this Act, is that so much has been given to agitation that the conclusion is that adjustion that it is nown to be and the counties of the cou

1812. You have heard that the Commissioners are likely to be transferred
(0.1.) r 2

a pity to transfer them.

16th March 1882.] Mr. Townshenn.

from the counties in which they have been acting up to the present time, have

Continued.

Thave leard so. I had a conversation recently with one of the Sub-Commissioners on the subject, and agreed with him in the view he put hefore me that it would be a pirty that the proposed change should be carried out, because they had learned heir district; they knew the different classes of lands, they had learned the valuators who were produced as witnesses; they knew the men to be rejected, and on the whole the conclusion I cause to was, that it would be be rejected, and on the whole the conclusion I cause to was, that it would be

1813. You would have to bring a fresh set of men who did not know the county, and did not know the different classes of boldings in the district?

They would be entirely ignorant of the whole of it; they would have to learn

the whole question.

1814. Therefore, it is your opinion that it would be better, if possible, to keep

the Suh-Commissioners in the districts in which they have been working? Certainly, for the present, I am satisfied it would be so.

1815. Duke of Marlborough.] On the question of expense, have you formed any idea as to what is the average cost of each case to a landlord coming into court?

In the cases I have had, the average is somewhere about 10 L to 15 L

1816. I see in the list before me 23 cases of one landlord; do you suppose there would be an expense of 10 l. to 15 l. in each of those cases; these were

the cases of Jumes Shiel? I should say where there is a number of cases the expense is smaller, perhaps about δI , or δI .

1817. What would you suppose the expenses to the tenant would be?
Of course his expenses are large in proportion to his means, but they are very
small. A small sum satisfies a valuator for him, and all his brother tenants are

1818. Then the expense to the tenant is not considerable?
The expense to the tenant, I should say, is small. Of course I have no

practical experience.

1819. What would be the expense when the case is appealed against; would

the expense to the tenant be considerable there?
Yes, considerably more so than in the Court of First Instance.

1820. Viscount Hutckinson.] We were told here the other day, that the tenants contract with the solicitor to do their cases at so much a head; is that your experience? I believe that is so when there are many cases.

I believe that is so when there are many care

1821. Duke of Marlhorough.] But it would increase the expense to the tenant very much, would it not, if the case were appealed against?
Yes, that is so, but the Appeal Court travel ahout to different places to lessen that expense as far as practicable.

1822. Duke of Norfolk.] Can you tell at all what sort of expense the tenant would be put to in that case?

t have no practical experience of that.

1823. Lord Tyrone.] Will you state what you know about the Board of Works

loans? Under the recent Land Act there is power given to lend money direct to the tenants, but the facilities are not great that are afforded them. For instance, a proprieter can get money to drain this land, or to build upon it, at 5 per cent, which pays off principal and interest in 35 years. The tenants must take it for the shorter period of 29 years at 64 per cont. That

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in the way. Another difficulty is, that they must have two solvent securities for the repayment of the mooey. I merely wish to mention those as difficulties, and I think it a pity if they cannot be overcome. 1824. Chairman, I another difficulty has been mentioned, namely, that they

1824. Chairman.] Another difficulty has been mentioned, namely, that they will not advance less than 100 L. I do not know whether you have found that to be so?
Yes, that is so.

1825. Do small holders complain of that?

Yes; the landlord can get a sum as low as 100 L, and if that be so, the tenant ought certainly to be able to get a sum as low as 50 L

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Tuesday next, at Twelve o'clock.

Die Martis, 21° Martii, 1882.

LORDS PRESENT:

Duke of Nonfole. Earl CATRES. Duke of SOMERSET. Viscount HUTCHINSON. Lord TYRONE. Marquess of Salisbury. Marquess of ABBRCORN. Lord KENRY. Earl of PEMBROKE and MONT-GOMERY.

Lord PENZANCE. LORD BRABOURNE.

THE EARL CAIRNS, IN THE CHAIR,

Mr. MURROUGH O'BRIEN, is called in; and Examined, as follows:

1826. Chairman. Yoo held office, we understand, for many years under the Church Commission? For 9 or 10 years. 1827. What was your office under the Church Commission?

I was called inspector of estates. My duty was to value the church properties for the purpose of offering them to the tenants.

1828. You valued the church properties for the purpose of selling them to the tenants?

Yes, a large port of them. 1820. May I ask you what was your profession before you were an officer of

Earl STANBOPE.

the Church Commission? I was trained in a land agent's office for two years in Ireland, the office of the Marquess of Lanadowne's agent. Before that I had been in New Zealand and America.

1830. What is your office at present in the Land Commissioners Court? I am called their Chief Agent, and my business is the superintendence of

Part 5 of the Land Act, which deals with the sale of lands to tenants, and with emigration. 1831. That is what is popularly called the Perchase Department, I

think? Yes.

1832. And have you also been appointed, or have you acted as valuator to the Land Commissioners?

I visited a few of the reot appeal cases.

1833. About judicial rents? Yes; but only a very few. My principal duty is the superintendence of the sales; in fact that is my whole duty now.

1834. Your office would not be styled that of valuator?

1835. And I believe you have given evidence before several Commissions with regard to the working of the Church Temporalities Act, and the sales under it? I was (0.1.)

21st March 1882.7 Mr. O'BRIEN. Continued.

I was examined at length by the Committee of the House of Commons in 1878, and I gave evidence shortly to the Richmoud and the Bessborough Commissions.

1836. In your department of the Land Commission Court what staff is connected with it?

The staff at present in that department consists of myself; an assistant who also goes to the country, and values estates and reports upon them.

1837. What is his name?

Neville Stewart. There is also a clerk who conducts the correspondence. and there is a surveyor who surveys when necessary, and superintends the execution of the maps upon the conveyances.

1838. You are the head of that department? I am.

1839. Then are the forms and instructions issued by that department prepared or revised by you? They were not prepared by me. I was asked to make some suggestions in

the course of their preparation; but beyond doing that I did not prepare them. 1840. I think we saw certain forms, A. and B. Those were, I suppose, revised

by you before they were sent out? I prepared one form of instructions to teoants as to the terms upon which they can obtain advaoces; and if you will allow me I will hand that in. That

is one of the papers your Lordships have had before you, revised and enlarged; it contains the substance of one of them with considerable additions. 1841. When was this issued? I could not tell you the exact date. It was when the other circular, marked

B, went out of print; we wanted more copies and thought it advisable to colarge them.

1842. Then this is the present form? Yes. (Document handed in.)

1843. Before we go to the question of Part 5, may I ask you if you have had any experience, or observed at all, the working of the Act as to the fixing of judicial rents? I have taken an interest in it, but beyond reading the accounts of the pro-

ceedings in the press, I have had very little opportunity of seeing anything of the working of that part of the Act; except with regard to the very few cases which I visited for the purposes of the appeals. I may say I visited those with Mr. Grev, who is the valuer employed by the Commissioners to visit the places before the hearing of appeals.

1844. Did you value along with Mr. Grey, or separately, in the cases in which you valued?

Mr. Grey and I visited the farms together; we made up our valuation separately. If we agreed, we presented a joint report; if we disagreed, we presented separate reports.

1845. In part of your evidence before some of the Commissions you have referred to, you point out that one of the great difficulties in valuing is how to deal with the question of tenants' improvements? I think that is an iosuperable difficulty to the question of fixing a fair rent, not to the question of valuing.

1846. Your correction is quite right; I meant for the purpose of fixing a

fair rent? A valuer, I think, can only give his opinion of the value of the land as it stands; he cannot eliminate improvements or works of any kind that have been embodied in and form part of the soil, nor can he discern and estimate the extent to which deterioration may have taken place.

1847. He

My O'RDIEN 21st March 1882.7

1847. He takes the thing as a whole as it stands, no matter who made the

I think that is all a valuer cau do. Valuers profess to do otherwise; but I do not think it is possible to do so satisfactorily.

1848. I suppose I may assume that, for the purpose of valuation, the value is exactly the same whether the improvement is made by the tenant or by the land-

Cortainly: I think the valuation should be independent of that, and that the question of a fair rent, or any tenant's interest, should be decided quite spart from that.

1849. Do you think it is an obstacle in the way of the two parties who are in controversy for the purpose of fixing a fair rent, that the tenant who claims to have a fair rent fixed is not called upon to state heforehand what improvements he claims to have made? I do not think I can give you a satisfactory opinion upon that point; of

course it would tend to the elucidation of truth that the tenant should specify fully all the improvements that he has made; and, as far as I understand the practice of the Court, on the requisition of the landlord's solicitor, tenants have been ordered to furnish particulars of the improvements which they alleged they had effected. In fact, I know an order was made to that effect in one case io the County Antrim.

1850. But putting aside the question of a special order being made, do you think that a landlord can adequately be prepared to meet the case which will be presented in Court, if he does not know beforehand what improvements the tenant will claim to have made? No; I should say certainly that either side should be furnished beforehand

with the particulars of the claim and of the defence to the claim.

1851. We understand that it may be possible on making an application or notice to the Court in Dublin, supporting it by affidarit and instructing solicitor and counsel for the purpose, to obtain an order on the tenant to give those particulars, the landlord bearing his costs of the application. Do you think it is desirable that that expense and delay should be incurred in order to obtain what you very properly say is a necessary piece of information for the landlord to have ?

I think it would add enormously to the expense of gotting up the tenant's case, and would he a serious embarrassment to the tenants. Of course, many of the tennnts are illiterate meu, and it would be necessary, if they had to present a schedule of the particulars of the improvements which they had effected, that they should employ a skilful and competent surveyor, and it would ndd so much to the expense of their cases that I think it would deter many of them from going into Court. 1842. But I suppose, if the landlord applies to the Court for an order, and

the Court makes the order, the expense must be incurred then by the tenant, and incurred in n more serious way? The expense would have to be incurred, of course, but not in a more serious

way. If a tenant was obliged to furnish such a statement of particulars as your Lordship speaks of, it would involve the measurement of almost every field; it would involve the measurement of all drains effected, and of the buildings, and an estimation of the amount of work dose in the way of subsoiling or removal of stones; and that could not be done by him without very great expense.

1853. I suppose the tenant must do that at some time, if he is to make a claim upon it i

I am not very conversant with the way in which these rent suits are conducted; but what I imagine is the case, is that the tenant produces his witness, who has not to state all these things in a formal way on paper, but in a urt; and is subject to cross-examination, and the evidence is tested then by covisit of the Sub-Commissioners to the place. That, of course, is a much less expen178

21st March 1882.] Mr. O'BRIEN. [Continued.

sive proceeding than the one you suggest, and which would be more satisfactory

if practicable.

1854. I suppose the tenant knows, or is assumed to know, bis own case, and what improvements he claims to have made:

There is a great difference between a man knowing the improvements that have been effected, and his putting them on paper in such o form as would be necessary to file them in Court.

1855. What I wanted to find our was your view os to the comparative expense. You say very finity that an enter might be obtained in Lubble. The landlerd applies to the Court in Dublin, and the order of course must be made on nutries to the transat. The trensat either ought to appear or our appears by his advisers in the Court in Dublin. Then the order is made; then the order has to be compiled with, and the transat has then to you not paper either to transat. Now, when all that is from, will the trensat have been put to greater or less capsess them of the state of its not ferrit instance?

to state. Now, when all that is doine, will the featured have been put to greater a continuous part of greater and the property of the property of the property of the property of the state property of the same expense. I am not owner of an application having been made to the Court, except in one in not course, to compile the tenants to do that. It was given at concept in one in the court of the order or whether it compiled the tenants to specify the know the property of the

they had done.

1856. Marquess of Salisbury.] But you stated that the remants evidence to indicate the improvements; is it sufficient in itself without correction to determine whether he is the author of those improvements, or that

it is at his cost that those improvements have been made?

The evidence of the tenant and his witnesses is of course tested, and subject

to cross-examination.

1857. But mere cross-examination is of little use to correct evidence, unless there are facts and counter-evidence on which to base the cross-examination.

How are those to be produced, unless the landlord has notice of the claim that is to be made?

I do not know how they can be produced satisfactorily, but no doubt they are

I do not know bow they can be produced satisfactorily, but no doubt they are produced. The landlord or his agent is conversant with the facts of each farm, or ought to be.

1858. The evidence before us is that they are not produced, and that they are not produced because the landlord has not notice enough; do you think that that is a just state of things?

I had somethink it was just if he landlord could not do it; but I should assume that he landlord or his agent would be perfectly conversant with the condition of the farm, that if it was alleged that such and such improvements extinct, he would probably known once sufficiently that the tenant, because be would have his estate accounts to refer to, to ascertain whether any of those improvements had been effected it the cast of the landlord.

1850. Chairman.] That to be soif the handlard were resident on the farm, or it his agent were always the same person; but same the present owner, and the present agent, to be altogether different to those who were in existence when the improvements were made; suppose they know the present state of the farm quite well, but do not know the bistory of it, how are they to be prepared with evidence about that history, unless they know the case that is gived to be

set up?
I do not think that it is a perfectly satisfactory state of thing; but you must remember that the tenant is exactly in the same embarrassment. He may not be lived upon the farm always, he may have bought it, same with the may be upon the limit of the limit

1800. Does .

21st March 1882.7 Mr. O'BRIEN.

I Continued. 1860. Does it not strike you that the difference between the two is this; the

tenant has some weeks to inform himself of the history, and to set up such case as he considers he can set up, and to prepare the evidence to support it. During all that time he, we will assume as you do, is equally ignorant of the antecedents of the farm; he does not in the least know what the case is that is going to be set up, and is not able to supply himself with any evidence to meet the case that is going to he set up?

I think that the ends of justice would be served by the landlord, when he receives the originating notice to fix a fair rent, having the farm examined by a competent surveyor or valuer. He would, of course, have in his estate accounts (which he would have whether his agent were formerly the same person as he has at present or not) record of any moneys spent upon the farm; that is to say, in cases where estate accounts are regularly kept.

1861. Lord Penzance.] Are you aware whether the Commissions act on the evidence of those estate accounts, or whether they reject it?

I have had very little to do, I may say nothing to do, with the settlement of fair rents before the Sub-Commissions; but I have no doubt they receive any evidence that is tendered to them.

1862. You may, or may not, he aware that they may not be legal evidence, although the person that made the entries in those books has ceased to be agent, but is still alive; are you aware whether the Commissioners have taken that

view and rejected the evidence? I do not know at all. I merely refer to the estate accounts as furnishing material to the landlord, who sends a valuer or surveyor to value his holdings which are the subject of dispute, upon which to give instructions as to what

noints the surveyor should attend to. 1863. Chairman.] Speaking of the management of estates and estate accounts, that may or may not apply to very large properties continuously held; but I sup-

pose there are a considerable number of small properties where there is no regular estate office and where there are no estate hooks kept? In small estates I should think there are probably no accounts kept.

1864. Suppose a property sold in the Encumbered Estates Courts, we understand that the purchaser comes in without any paper or account whatever relating to the previous history of the estate; is not that so ?

That is frequently the case. 1865. Is it not always the case in the Encumbered Estates Court that nothing whatever is handed to the purchaser except the small piece of paper which

declares his title? Certainly in such cases the landlord would be ignorant of the history of the property.

1866. Going beyond that I should like to ask you this also. Of course if everything is fairly and honestly conducted, you may say that no case will be set up by a tenant except one consistent with the facts, and that the facts, perhaps, might be ascertained. Suppose a tenant sets up a case at the trial which is unfounded; how is the landlord then to he prepared with evidence to meet that? I really do not know how he is to be prepared to meet that beyond the facility there is in courts of law for always meeting unfounded claims.

1867. But in courts of law there always is a facility, and that is exactly what we are coming to, from the circumstance that beforehand the party is obliged to state what the case is that he is going to prove?

It is merely a question of whether it should be stated heforehand or as the time of the trial. I think, as I have said before, that it would be better if particulars could be furnished beforehand; on the other hand, I think it would be impossible for tenants generally to furnish them owing to the very great expense. I might also say that I think it would be very difficult for tenants as a rule to prove expenditure on their part in the way of improvements.

1868. We are not at present upon the question of proof; it is upon the ques-(0.1.)

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21st March 1882-] Mr. O'Brien. [Continued.

tion of the statement of what they are going to prove. What I wanted to ask you was the expense you consider to be connected with that statement?

you was the expense you consider to be connected with that statement?

The expense would be that of a competent surveyor and valuer, who should visit the farm, value it, measure any improvements, and set those down upon paper.

180g. Lord Pensauce.] If the tenant himself when he comes into Court is able, and as you look upon it he is, to state what the improvements are, why cannot he make out the list of those improvements without the assistance of a

cannot he make out the list of those improvements without the assistance of a valuer?

It is necessary in lodging a schedule or statement of particulars of that kind, that it shall be done in a formal and intelligible manner upon paper, and an

that it shall be done in a formal and intelligible manner upon paper, and an illiterate farmer would be quite unable to do anything of the kind, and he could not dispense with professional assistance.

1870. Does not that point to this, that any such schedule ought not to be

required in any very formal and particular way, but in a natural way, in the same way as he would give his evidence in the witness-bux; that would be quite enough to inform the landlord, would in not, might it not be done in that way?

Lattly think that axidence that can be given verbally cannot be given by an

I still think that evidence that can be given verbally cannot be given by an illiterate man on paper.

18.71. Chairmann.] What would the difficulty be in doing this; you say the case must be proved, when it comes to the proof, by a valuer who will make the calculations, and come and state them in the witness-box. He must, therefore, have gone over the land beforehand, and have seen it; what would be the difficulty of his doing so, and putting down on paper what he has seen and is prepared to

prove as regards the amount of improvements and the tenant supplying them? There would be no difficulty whatever in his doing it; but I think there would be a difficulty in his doing it is satisfactorily. In case of compulsory purchase all claimants have to got very great expense in employing professional men to get up their case; and it would be necessary for a tenant to do exactly the same.

1872. I understood you to say the tenant must do that before the trial; he must have a person of that kind prepared to give evidence on the occasion of the trial?

I do not know whether his own statement verbally of the fiets and alleged improvements is sufficient, or whether this corrobusted usually by otherwise, many be perhaps by his neighbours, who are equally littlerate, and who give their services to him for nothing, but I am quite sure that if such a statement of particulars hed to be ledged in Coury, it could not be done without the help of a profusional witness, and I have known many teamss already have found themselves unable to obtain professional witnessee because of the great expense statedout upon their employment.

1873. Then, is it your opinion that it conduces to arriving at the truth to dispense with that statement, in some shape or other beforehand, which alone, I think you admit, would enable the truth to be examined into and rested?

I do not think that it alone is necessary to the secretainment of truth. I think it would be a material assistance, but I may say, I think, that the settlement of a fair rent, and the elimination of tenants improvements from the value of the land, is a most difficult thing, and cannot be satisfactorily, or I believe justly, done.

1874. Lord Tyrone.] Do you mean that it cannot be done under any circumstances?. I merely mean that, as a general principle, it is most difficult and

I merely mean that, as a general principle, it is most dissent and unsatisfactory.

1875. Then the action of the Sub-Commissioners, I take it, must be difficult and unsatisfactory, if it is so in all cases?

I only speak for myself; I should find a very great difficulty. Whether the

action

						OWNER	-
action of the Sub-Commissioner	s is a	satisfactory or	not	I have	no	means	of

1876. But you would find it very difficult to carry out that work satisfactorily:

satisfactorily:
I would.

1877; Marques of Abeccern. You say you think it would be unfaired about

1877: Marquess of Abeccern.] You say you think it would be unfair to the tenant to insist upon his sending notice of his improvements on account of the expense which it would cost him in having a ralutor; I utilit into more unfair and unjust to the lendlord, who may have 500 cases to meet, that in each case he should have to be put to the expense of a valuator in order or orbat rejdence.

which he has never heard of, or known of?

I am not sure that I said it would he unfair. I said the expense would be so great as to deter many tenants going into Court if they were obliged to incur that as a preliminary expense.

1878. Lord Krazy.] The great expuses would only be incurred if the tenant was required to enter into minute particulars. If he was required to make a general statement of the improvements he claimed, such as such and such house; such and such drains; the expense would not be very great, would it? It would not be very great.

1879. Earl of Pembroke and Montgomery.] And it would be quite sufficient for the landlord, would it not?

I do not know; I do not see how he could meet the case satisfacterily unless be was furnished with particulars which he could have tested by re-measurement and re-estimation, of course.

1880. Lord Kenry.] At any rate the landlord would know what particulars he would have to get up for his own case? I think when the landlord is served with an originating notice, if he has the

I think when the landlord is served with an originating notice, if he has the farm examined by a competent valuer, that he then has all the materials to meet the case made in Court.

1881. For the whole farm? For the whole farm.

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1882. Then he would be saved great expense if he knew he was only required to meet the case, as regards a particular partion of the farm? I do not think it would make any material difference.

1833. Chárrasan.) Suppose a handlerd was served with 50 notices upon his state, a you say, no information is given to line and the most be prepared by being ready. In the control of the property of the most position of the control of the control of the control impection and valuation over every part of the so tholdings. Suppose the tensars on the other hand had stated when the control impection and valuation over every part of the control of the contro

I do not think he is put to so much expense as the tenants, because the landlord generally, or his agent, have an acquaintance with the farms and their condition, or they ought to have, but I admit that the whole question of fixing rents is, to my mind, very unsatisfactory and difficult to effect with justice.

1884. Lord Penzance.] May I ask whether, in the answers you have been giving upon this question of notice to the landlord, you are speaking of any experience you have had in the matter, or have you had no experience?

I have had no experience whatever of the action of the Sub-Commissioners. 1885. Chairman.] You told us, I think, that you had valued for the purpose of the Commissioners on appeal?

Yes, I visited some places. 1886. In how many cases, may I ask, did you value?

I suppose, 20 or 30. (0.1.) z 3 t887. And

[Continued 21st March 1882.1 Mr. O'BRIEN.

1887. And did you receive any particular instructions as to how to conduct the valuation, or were you allowed to do it according to your own judg-

I had no instructions beyond those that I gathered indirectly from conversation with the Commissioners. I gave the Commissioners an explanatory report with the figures that I lodged.

1888. Do you mean rfter you had valued?

After I had valued the farms so as to enable them to judge of the way in which those figures should be applied. If you will allow use, I will read the report to you.

1889. Will you please read any part you think material with reference to the

question ? It applies to the question which you have asked as to how the valuation could be made. This was on the appeals in the county of Limerick. "Explanatory Report.-In order to prevent any misapprehension I wish to add a short explanation to my reports. The sums named by use are not intended to represent my opinion of what may represent 'fair rents' under the Land Law. They are what I consider would be the fair rents of the various holdings if they were now to be let in their present condition at rents fixed for 15 years, the landlord paying one-half the poor rate, but no other taxes, and the tenant being liable for the maintenance of the fences, buildings, and other farm equipments. I have indicated improvements and deterioration where they were evident, but have made no allow-ance one way or the other for these. I have valued each farm as I found it, and in my opinion, no valuer can do anything else. To estimate the value of land as it might have been at any previous time or in some other condition is, in my opinion, an impossibility. The appearance of land affords no reliable indication of what it may have been at any past time, since which, deterioration or improvement may have taken place; nor can a valuer make any allowance for the work and outlay which have led to the present condition of land without having a truthful description and valuation of the land in its former condition, and a specification of the works since effected, and their cost. In the same way, deterioration cannot be discerned or estimated by mere inspection. For example, in the case of land where the common improvements of draining and removal of stones have taken place, the surface of the land does not differ from that which is permanently dry, or where there have been no stones to remove. The only indication of drainage is the outlet with running water, but this may be a single drain from one wet spot, or may be the outfall of scores of drains. Where stones have been removed they may have been few in number and easily removed without expense in the ordinary course of cultivation, or they may have been numerous and so large as only to have been removable by blasting or other expensive processes. They may have been piled up into the fences where they are visible, or buried out of sight in drains and holes, or carted away altogether. Inspection will not enable anyone to determine when improvements were effected or when deterioration commenced. With respect to farm huildings, where the holdings are small and the houses thatched and had, they do not, in my opinion, add to the letting value. If not substantially built, the cost of their maintenance would exceed any value they confer on the holding, though to a tenant with no other residence they are as much a necessity as his clothes or food. A farm cannot he cultivated to the hest advantage if the residence of the tenant and his offices are insufficient or ruinous. On the other hand the buildings on a farm may be more than sufficient for its cultivation. In such a case the value conferred by the buildings is not commensurate with their cost, nor can it be measured at any fixed rate of interest on the cost of the buildings. Among the holdings valued in the Limerick district there are cases where the farm buildings are more than sufficient for the farm, as well as cases where they are quite insufficient. The above remarks will explain the view I have taken in these cases, and with respect to drainage and other apparent improvements on the farms I have

1800, Then.

valued."

21st March 1882.]	Mr. O'Benen.	Mr. O'Benes.			
1890. Then, do I unde slued the holding as it s	rstand that on those occus tood, without making any	ions when	you or any	valued	you

valued the holding as it stood, without making any distinction or any deduction in respect to improvements: Certainly.

1891. How were the improvements dealt with, and by whom? The improvements are dealt with, I suppose, on the evidence.

1892. You took no responsibility as to that upon your evidence?

vears.

(0.1.)

I had no power to take any evidence whatever on the point.

1893. In fact you would not have had the materials to discriminate between improvements made by the kndlord, and improvements made by tenants?

Certainly not.

1804. Marquess of Salisbury. You say that houses would not aid to the letting value of the farm; do you mean by that that you gave no return as to

the cost which, in your judgment, such improvements might represent?

I may have put down the figures where there were substantial buildings which, in my opinion, it would have cost to erect those buildings; but I did not value the buildings apart from the lend. I took the farm as a whole, and gave my estimate of its as its present letting value, if it were now to be let for 15

1895. You aided the Commissioners to the best of your power in striking the principal sum; but you gave no aid in striking the deductions that are necessary before a fair rent can be arrived at?

18git. Chairman.] The question of who made the improvements, you say, would be dealt with upon the evidence, and that would materially be the ease; evidence would tell you, of course, who made the improvements, and, if necessary, also what the improvements cost; but who was it who valued the value of the improvements at the time of the admissration of the fact went?

ments at the time of the adjudication of the fair rent?

The report I have read refer to cases, the appeals as to which have not yet been heard.

1897. Marquess of Salisbury.j In mone of the cases for which you have valued have the appeals been heard, do you say? The sale Belfast. I have valued some of the cases in the Belfast district where

the appeals have been decided.

1895. Chairman.] We had better confine our attention to cases which have been decided, lest it might be supposed we were interfering with cases which

were sub judice?

I presented a shorter report in explanation of my valuations in Belfast.

1899. I do not wish to trouble you with it, unless it is something different.
If it is to the same effect as the other; one will be sufficient?
It is not he same effect.

1900. What we understand takes place is this; there are two elements in arriving at a fair real. There is, as you as, what is the value of the holding as it stands, without reference to who mude the improvements; what is the whole many the control of the contro

aware of it, you cannot answer the question?

I am not aware; I presume it would have been settled by the evidence.

1901. Earl Stanbope.] Do you value a farm as a whole, or do you make a field-to-field valuation?

I may say I do both one and the other; I form a general opinion of the farm from

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from its appearance, but I think it is also necessary to go into details if the land differs in quality; there are so many acros of one quality, and so many acros of nother, and I presume that is what your Lordship means.

1902. I also want to know whether in your report you give it in detail?

1902, Chairman, Before we leave that subject, let me ask you, are you aware that under the Act of 1870, when a t-man made a claim in respect of improvements he was obliged to specify in detail a certain length of time heforehand what the improvements were, and their nature, and the time that they were effected?

No, I was not aware of the practice; I have never had any contentious practice under the Land Act of 1870.

1904. It has been satied to us on authority from the Commissioners' Office, that in the first instance the Sub-Commissioners were required, in the form issued to them, not merely to give their opinion as to the fair judicial rent, but hot satus as a separate matter the value which they assign to the tenant's improvement, and that in prefete that was not done. Do you consider that it when the contract the contract of the contract that the contract is of the contract that was not done. Do you consider that it was not done. The contract that the contract is of the contract that the contract is of the contract that the contract that the value of the contract that the value of the contract that the contract th

That is a subject which I may say I have not considered at all; that is to say, the form in which the Sub-Commissioners should furnish their decisions. I have no doubt it would be valuable and interesting to have all the grounds in detail, which lead them to the fixing of a fair rent, but whether that is practicable or not I do not know.

1905. Independently of any knowledge you have of the action of the Sub-Commissioners, and with reference to your general acquaintance with the Land Question in Ireland, do you blink that the settlement of fair rents over the country is or is not likely to become itself an ingredient in the future valuation of Ireland?

In the valuation for rating, do you mean?

1906. For any purpose, or for rating, and statistical purposes of every kind? I do not think it should be, because the fair reut fixed only indicates a part

of the value. Outside that there is the tenant's interest, which in some cases largely exceeds that of the landlord; that is to say, as tested by the market value.

1007. Of course we should probably be quite agreed, that it would not be a correct test of the value taken alone; but does it not occur to you that there is some danger that it may insensibly become so?

I do not know that there is any danger of its becoming so: but I certainly think it should not be taken as any indication of the value of the land in Ireland as compared with England, or as a hasts for rating. It would be desirable for the purpose of rating that we should have a valuation based upon the English principle, of what is the rack-rect value; that should be the value for rating.

1908. When you use the term "rack-rent," what do you mean; do you mean the landlord or tenant's interests put together?

The market rent of the farm, as a whole, membarrassed by any question of mildnowly or canani: interests. That should better whole for miling and 1 that the little state of the control of

1900. Lord

Continued.

21st March 1882.] Mr. O'BRIEN. [Continued.

1909. Lord Brabearne.] You used the expression just now, "as tested by the market value," as far as the landlord's interest is concerned, there is no market value for that just now, is there; he is deprived of his market, is he not?

value for times just now, is there; he is deprived of his market, is he not?

That is so; that is to say, he can no longer let land by competition if there are tenents upon it.

1910. Putting it in other words, he can no longer ascertain the market value of the property he has to dispose of by testing it in open market? Certainly not.

1911. Chairman.] Then, taking your definition of rack-rent value to mean the market value, how will the market value for the future he ascertained?

I presume there will be a sufficient number of cases in the country of lands

heing let unembarrassed by any tenant's interests to serve as a guide.

1912. Marquess of Salisbury.] Where will they come from:

Landlords may have lands in hand; they may have lands unembarrassed with tenant's interest.

with tenants interest.

1913. Are you aware that a tenant coming on to laud not now let, in the first
15 years comes on as a present tenant under the Act?

With no limitation as to rent.

1014. The present tenant may go to the Sub-Commissioners at once, may be

1014. The present tenant may go to the Suo-Commissioners at once, may no not? If I understand the law he cannot.

If I understand the law he cannot.

1915. Lord Tyrone.] I think you gave evidence before that land that was in hand at the time of the Church Temporalities Commissioners' sales fetched a

very much higher purchase than that which was let to tenants?

A higher rate of purchase on the tenement value, we will say. Certainly it did.

did. 1916. No, but ou the value. I think you mentioned the value particularly in your evidence. You were asked, as far as I remember, the question how the

Takes was ascertained, and you said by valuation?

I do not recellect the evidence you refer to, but there is no doubt that as to two plots of land adjoining each other, one of which is let at 1 L an acre, and the other of a similar quality, worth 1 L an acre; but which is not let, the one without a tenant will sell for a larger price per acre than the land with the

tenants upon it.

1917. Then the class of land that is likely to come into the landlord's hands, according to your previous answer, would hardly be a fair test of the value of

land in Ireland?

For the purpose of ascertaining the annual value for taxetion, I think you want to ascertain the hest rent which can be obtained; a landlord now who has land in hand to let, can let it to the best advantage; and that would be a guide

as to the market letting value of the land.

1918. Marquess of Salisbury.] Is there any considerable quantity of such

land?

No, I do not think there is a considerable quantity; but there is land from
which tenants have been ejected; there are demesne lands which landlords
have in their own hands, or farms which they have in their own hands.

1919. Which they are inclined to let, you think? Which they may let.

1920. Earl of Pembrake and Montgomery.] Could you not get at the market rent of the land by adding the landlord's to the tenant's interest; that would give you the market value preity nearly, would it not?

You have the landlord's rent showing the annual value of part of the whole value; the tenant's interest will be the subject of sale and purchase, and will be sold for a capital sum. Whether it would give you a true estimate of the annual value to take a certain rate of interest on that or not is questionable.

(0.1.) A A 1921. Approx

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1921. Approximately

21st March 1882. Mr. O'BRIEN. [Continued.

1921. Approximately it would do so, would it not? It would do so, to some extent, but I do not think accurately.

1022. Lord Keary. Have you any idea, in the cases you valued, what you would add, yourself, to the rack rent?

I can give no opinion at all about that, because the circumstances of the farms varied immensely.

1923. Marquess of Salisbury.] May I ask the principle by which your valuation went; if you did not gn by market value, did you go by the price of the

produce and any definite payment to the tenant for his labour and capital? I gave no detailed estimate of such things. I gave my opinion as to the rent at which I considered the landlord, who bad a farm in hand, could let it to a solvent tenant, at a rent which would be secure to him, and which would bear the strain of the ordinary fluctuations of the season.

1924. You went, in fact, upon a hypothetical market price? I went on the ground of the experience which I have bad in lettings.

1925. In past years?

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In past years, and having regard to the present state of affairs.

1025. Lord Brabourne. Were you guided at all by the present prices of the produce? Certainly.

1927. Marquess of Salisbury.] Did you assume, in valuing, that you were dealing with a state of things in which the owner of the land would have the free right of letting at a competition rent to anybody who proposed to take? The rents I named were those at which, if I had been acting for the landlord,

letting the farm in its present condition, I should have advised him to let it at. I should not always advise a landlord to take the highest rent bid. If he did so be might find his rent was not well secured, and I should think it an unwise thing always to take the highest rent that was offered, just as it would be unwise to take the lowest tender that is offered for the execution of works, unless you have some guarantee that the work would be faithfully executed. 1928. But the value that you assumed was independent of any disturbance

created by the peculiar conditions of the land law, and that it was such value as you could have gained in a country not subject to the land law in Ireland; is that so? I do not quite understand your Lordship's question.

1929. I mean the land law has exterminated, to a great extent, if not entirely, all competition for land; but I understand you to say, nevertheless, that your value was one which, in your judgment, if there were competition, the most eligible competitor would give, and by "eligible," I mean, of course, to include the question of security, as well as the question of the absolute amount? Yes.

1930. That is a fair statement?

1931. Lord Tyrone. It bink you have stated, in previous examinations, and in fact, stated here to-day, that it is almost impossible for a valuator to arrive at the improvements that have been made upon farms?

I think it is impossible, by a mere inspection, to say what has been the state of the farm at any previous time, or to say at what cost it has been brought to its present state.

1932. Then how do you suppose the Sub-Commissioners arrived at that

I really could not undertake to answer for the Sub-Commissioners at all. If I was acting myself I should do it by hearing the evidence and seeing the land and judging to the best of my ability, and even then, I think, the result would not be very satisfactory.

1033. Have

21st Moreh 1882.] Mr. O'BRIEN.

1933. Have you ever acted as valuer for any landlords in Ulster?

1034. When you were valuing land for the Cours of the Chief Commissioners, did you ever take into consideration the capacity of the tenant to manage the farm?

Certainly not, because I had no acquaintance with the tenants. I could not have done so, oor should I have done so.

1935. Do you consider that it is possible to value land in the depth of winter?

I think an experienced valuator ought to be able to form almost as good an opinion at one time of the year as at another. Of course it is not desirable to see land when there are crops upon it, nor would it he possible to value land at all if frost-bound or covered with snow; but otherwise winter is not a bad time to value.

1936. Would it not be very much against arriving at a fair value, if the land were covered with water? Certainly; except as an indication that it was frequently flooded.

1937. Do you recollect valuing Mr. Heron's estate, in the County Down, for the purpose of police appeals?
I did not value it.

1938. Do you know what valuators did value it?

No, I do not.

1959. You are not aware of anything about that estate?

Except that it was the subject of appeal; I did not value it.

No, I am not. 1941. Lord Brabourne.] Is there any land in Ireland as in England that

they call half-year land; that is, lands that are for some mouths under water and for some mouths fit to keep a quantity of stock upon. Of course, in that case it would make all the difference in the world what time of the year he saw the land?

I am sure there is a great deal of such land. I know a great deal liable to

I am sure there is a great deal of such land. I know a great deal hable to floods; and if hable to wioter floods, it is also liable to summer floods, which may not occur so frequently, but if they do occur they are more damaging. 1042. Lord Tyrone.] Are you aware of any grass land in which flooding

improves the value?
Yes, if the flood comes at suitable seasons.
1943. In valuing land, did you ever take Griffith's valuation into considera-

1943, It valuing into day for the amount of taxation the land would be For the purpose of estimating the amount of taxation the land would be subject to it is necessary to do so. Beyond that, I do not consider Griffith's valuation to be any reliable guide whatever. I think it is most unequal,

especially in places where the land varies rapidly in quality and character.

1944. You mentioned a report sent in by you to the Chief Commissioner, and I think you put it in evidence; is that the form of report sent in by the

other valuators?

No; that is merely in explanation of the figures which I gave to the Commissioners.

1945. Chairman.] Have the Chief Commissioners over employed anyone but . Mr. Grey and yourself as valuers? I do not koow.

1946. Viscount Hatchinson.] Was there not a Mr. Bell employed? Mr. Bell is employed, but whether for the purpose of appeals or for assisting the Chairmen, I do not know.

(0.1.) AA2 1947. Lord

1947. Lord Tyrone.] There was a decision given, I think, by Mr. Justice O'Hagon, in which he mentioned that the valuators' reports merely excluded

buildings; and I understand from your evidence before us to-day that you included buildings? In the case of the holdings I valued to the Belfast district, I took no account

whatever of the buildings, hecause I understood that it was admitted that they were the work of the tenants, as they usually are in that part of the country; moreover, with the exception of one or two farms, the buildings added little or nothing to the value, heing merely thatched houses.

1048. Then in those cases you did not take into consideration the buildings? In the few cases I valued in the Belfast district I did not toke the buildings into account.

1949. I am alluding to the particular case of Adams v. Dunseath? In that case I did not take the buildings into consideration.

1950. Did the valuators ever estimate a fair rent for the Chief Commis

sioners ? I cannot say what other valuers did. 1951. Marquess of Salisbury. Do I understand you to say that a house can

in no case he neglected altogether, as not adding at all to the value of the occupation? I think that where houses ore had and unsubstantially huilt, they do not add

to the letting value. In the case of a tenant selling his interest, if he found a customer who wanted such a house, he might get a little more for it, but heyond that I could not soy that it had any effect whatever upon the value. 1952. But o farmer must live somewhere; would he give as much for a farm

where there was nowhere to live, as he would for one where there was somewhere to live? I refer more porticularly to the case of small farms, and the competition in those cases for tenants' interest is very often between farmers who have houses

already, and therefore on small farms particularly, a house does not necessarily add to the letting value. 1953. Lord Tyrone.] Did you ever value tenants' improvements for the Chief Commissioners?

No. 1954. I think you mentioned that when you and the other valuator had a difference os to vour valuntions, you sent io separate reports?

That was so. 1955. Did your differences generally arise from principles of valuation? I do not think that the differences were of any great amount, and I do not

know the grounds upon which Mr. Grey, who was with me, arrived ot his con-

clusious. 1956. Lord Penzance.] Did you talk over the matter with Mr. Grey in each

case, or did you value separately? We made up our figures separately, and if we agreed we presented a joint report; if we did not agree we presented separate reports. 1957. Did you not talk over between one another the figures that were in

dispute, to see whether the one could convince the other? Except when it was a question of very small amount. If it had been a matter of 5 s. and 5 L, or 10 s. and 10 L, we might have endeavoured to make our

figures agree. 1958. Lord Brabourne.] Did you never compare notes to see whether you were going upon the same principle? I could hardly tell you. We lived and worked together for a fortnight, and

we conversed a good deal upon the subject, but I do not know whether we laid 1959. Chairman.]

down any principles upon which we both agreed.

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Continued. 1959. Chairman. I should like now to ask you something upon the subject

of the purchase clauses. Will you tell the Committee what is exactly the position under the Act of 1870, of a tensot with regard to getting advances for the pur-pose of purchasing his holding. What was the amount of advance he could get?

Under the Land Act of 1870, a tenant purchasing his holding was empowered to horrow two-thirds of the purchase-money. Under the Amendment Act of 1872 he was able to get two-thirds of the value of his holding as assessed by the Board of Works. That made a difference, inasmuch as it permitted the Board of Works to advance more than two-thirds of the purchase-money if they thought fit so to do; but I am not aware that they ever acted upon that power.

1950. Was that Amending Act by way of enlarging the accommodation given to the tenant? It was: but I am not aware that the Board of Works ever acted upon that

enlargement. 1061. That would assume that a tenant had made a purchase at less than the

full value? No; because he may have an interest of his own which might he taken into account.

1962. It was in order to include a tenant's own interest as well as what he had bought?

Yes, I am not aware that more than two-thirds of the purchase-money was ever advanced.

1963. What is the state of things under the Act of 1881?

Under the Act of 1881 the Land Commission may advance three-fourths of the purchase-money if they are satisfied with the security where a sale is by the landlord to a tenant; but hy what appears to be an omission in the Act the Land Commission is limited in the case of tenants purchasing in the Landed Estates Court, to the amounts which were permitted to be lent by the Acts of 1870 and 1872, and that puts purchasers in the Landed Estates Court at a very great disadvantage.

1964. So that a tenant purchasing in the Landed Estates Court from his landlord can only get two-thirds of the purchase-money; is that so? Two-thirds of the value of his holding as assessed by the Land Commission.

1965. As assessed by the Land Commission or by the Board of Works? Assessed by the Land Commission, because the powers of the Board of Works have been transferred to the Land Commission. By the 24th Section of the Land Act of 1881 the Commissioners may lend three-fourths in the case of a tenant purchasing from his landlord; but by the 35th Section the powers of the Board of Works are transferred to the Land Commission, and it has been held, after taking legal opinion upon the subject, that a sale in the Landed Estates Court is not a sale by a landlord to a tenant.

1966. That seems like an oversight in the Act, does it not? It is an oversight in the Act, which it would be most desirable to remedy if possible; because, instead of having a uniform system of advance it brings in a different system, which often leads to great inconvenience and disuppointment to tenants and landlords.

1967. And I suppose it is in the Lauded Estates Court that, if there are any sales in Ireland, the sales are most likely to take place? There is a large amount of property for sale, I believe, in the Landed Estates

1968. How many sales have actually taken place in your department nuder the Act of 1881? The AA3 (0.1.)

21st March 1882.7 Mr. O'BRIEN. Continued.

The Return presented to Parliament already shows all the cases that have been completed up to the present date.

1969. That is to say, there are none since the Return?

There are none since the Return, but I may give you perhaps the particulars of the applications that have been received. There have been 48 applications received altogether for advances under the Land Act. They embrace 158 tenants: the rental was 4'861 L, and the purchase-money, which was acreed upon hetween landlord and tenant, or upon which the tenants sought to have advances made was 90,000 l. Advances to the amount of 65,000 l. were asked for, and advances have been sanctioned up to the present time of 34,983 i.; hut some of these transactions will probably not be completed. In some cases the advances have been sanctioned conditionally on the renants being accepted as purchasers in the Landed Estates Court. In one or two cases the tenants have bid for their holdings, and their bids were considered insufficient, and therefore, although the Commissioners have sanctioned the advances, it is unlikely that those transactions will be completed.

1970. Then between the advances sanctioned, either conditionally or absolutely, of 34,000 L, and those applied for of 65,000 L, are the others under consideration, or are they rejected?

The others are under consideration. Some have been rejected. Seven applications were refused on the ground that the cases did not come within the meaning of the Act, or that the lands were not deemed sufficient security for the advances applied for.

1071. How was that conclusion arrived at that the land was not a sufficient security?

Sometimes upon examination and sometimes upon a statement of the faces, For instance, in some cases the lands were subject to large head rents, and the only security the Commissioners would have had for their advance would have heen the profit rent, which would have been but hadly secured.

1072. Then has there been any advance refused on the ground that the price given by the tenant was too large; that is to say, that there would not be security for three-fourths of the price given by the tenant? There have.

1073. How many cases of that kind have there been?

I could not tell you how many cases there have been, but I think that in some of the applications that have come before the Commissioners the price of the land alleged to have been agreed upon between landlord and tenant seemed to have been arrived at by the landlord leaving ont one quarter of the purchasemoney at such a low rate of interest as led to an enhancement of the price. For instance, in some cases the landlord agreed to leave out one quarter of the purchase-money at 1 or 11 per cent. That was not ascertained by the Commission by any written statement, but by the tenant's allegation when we sent down to examine the lands, and in one case I asked the tenant what terms or what agreement he had made with his landlord. I cannot give you the exact figures, but the tenant asked me whether he would he right in giving his landlord a mortgage for the amount named, and said that the landlord had intimated that he probably would be willing to sell the mortgage for half the sum named in the mortgage.

1974. Do you mean that the tenant was first to give a mortgage for 25 per

cent, of the purchase-money? Twenty-five per cent. of the purchase-money at 1 or 1 her cent, interest,

1975. And that then the landlord would sell the mortgage back to the tenant at 10s in the £.?

Yes; no agreement had been entered into so to that; but in that way it is possible that the Commissioners might be asked virtually to lend the whole purchase-money; that is to say, the whole market value of the lands under colour of lending the three-fourths,

1976. Be it right or wrong, your conclusion was that it was a colourable application 21st March 1882.] Mr. O'BRIEN. [Continued.

cation to the Commissioners, the object really being to get the whole purchasemoney?

1977. How many cases altogether do you say were rejected? Seven applications were refused on the grounds that the cases did not come

within the menning of the Act, or that the lands were not deemed sufficient security for the advance applied for.

1978. We have to deal then with seven refusals. How many of those were on the ground that the security was not sufficient?

am afraid I have not got those particulars. There have been other cases brought before the Commissioners, but not in the way of formal application,

where applicants asked if proposals for advances would be entertained, but where it appeared un a mere statement of facts that there would not be sufficient security to lend upon. 1070. Has there been any case refused in which the landlord and tenant have

agreed to sell at a price, and as to which there has been no reason to suspect a colourable or underhand hargain such as you have referred to, and where the Commissioners have held that the three-fourths would not be sufficient security? Yes, I think there are one or two cases where the Commissioners have

declined to sanction advances where there was no reason to suppose it was not a boná fide transaction. They have not absolutely declined to sanction the advances, but they have diminished the amount they were asked to lend.

1980. They were willing to lend less than three-fourths?

1081. How many cases of that kind have there been?

That I cannot tell you either; but there have been a few cases. 1982. In those cases did the Commissioners make a valuation?

The Commissioners had a report from me or from Mr. Stewart, who is assisting me in this work, and had the whole circumstances of the cases laid before them hefore they made their decision.

1983. Do you mean report after the valuation by you? A valuation and report.

1984. In what counties were those cases? I could not tell you in what counties those cases occurred.

1985. I understood you to say you had valued them, or that Mr. Stewart had

valued them? I merely speak from recollection. One case was in the country of Westmeath; the amount applied for was not sanctioned; the Commissioners thinking that the

security of the land would be insufficient for the amount they were asked to lend.

1986. What was the amount that was asked for ? I have not got the particulars of those cases.

1987. Do you recollect what the amount of the purchase-money was? No, I do not recollect the exact amount; but I do recollect that out of perhaps 1,500 L asked for, the Commissioners declined to lend more than about 1,400 L. They diminished the amount.

1988. If it is in the report you have before you, you can state it? The amount of purchase-money was 2,100 L. The Commissioners sanctioned

an advance of 1,400 L; the amount asked for was about 150 L more. 1989. What was the rental of the property?

The rent of the property was 105 L 5 s. 1990. And the purchase-money was how much?

(0.1)

£. 2,105. A A 4

1991. At

21st March 1882.1 Mr. O'BRIEN. F Continued

1001. At twenty years' purchase? Yes: that was at twenty years' purchase.

1002. That was not a judicial rent, I suppose?

The tenant held by lease in that case.

1003. Do you know what was the length of the lease? Thirty-one years, I think.

1004. Was there much of it to run? The lease was made in or about 1873.

1005. That was in Westmeath. Was it grazing land? It was orazing land.

1996. Lord Penzance. You were speaking just now of a case of colourable

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agreement between the tenant and the landlord. In that case the tenant was obliging enough to tell you of the bargain between him and the landlord, but if he had closed his mouth, and not told you of it, is there any way in which the Commissioners could have protected themselves in such a matter? I think it is very difficult for the Commissioners to protect themselves

against such transactions, but I do not anticipate that there would be many such cases. Still there would be some.

1007. But if they were successful why do you not think there would be likely to be many? It is not very easy to get two parties to agree to a transaction of that kind.

1998. Earl Stankope.] Do you think the purchase clauses could be extended

so as to facilitate more sales and purchases of land? I do. 1 think they require extension and amendment. There are some defects. I should call them, which prevent their working as freely as they might.

1000. Chairman. Before we go to that, I should like to ask you a little more about this case you have referred to. What was your valuation of the property?

In that particular case the Commissioners did not sanction the whole amount asked for. It was not very much more than the sum that was sanctioned, in my opinion there was sufficient security for the sum asked for,

2000. Then it was not in consequence of your report that the sum was reduced? In that case it was not. There have been cases which I have advised the

Commissioners not to advance the full amount asked for. As a rule, I think the landlord and tenant agreeing is the best evidence of value; at the same time if I thought the land was not sufficient security, I should advise the Commissioners not to lend the whole amount asked for,

2001. Do you know what the reason was, you having reported in favour of the advance, that it was not made? No. I do not.

2002. There was a rule of the Board of Works, was there not, about the advances which it would sanction with reference to Griffith's valuation? I believe there was a limit, and that they would not lend more than 29 years' purchase upon Griffith's valuation.

2003. That rule does not obtain in your office, does it? I am not aware of any such rule.

2004. You are not aware of its being acted upon now? No, there is no rule of that kind; otherwise it would be unnecessary to employ me to value the lands. The Commissioners, no doubt, look to the valuation as nearly every one in Ireland does, for some indication of what the value of the land is.

2005. Still

2005. Still the rule was not always to sauction an advance up to 20 years' purchase; it was only not to sanction one beyond?

Yes, it was limited 2006. You spoke of cases where the tenants had applied provisi-naily to know

before buying, what advance would be sanctioned ?

2007. Do you know of any sales which have gone off by reason of the tenants getting the advance they expected? I believe there are cases where the transaction has fallen through owing to the

Commissioners having refused to advance the whole amount asked for, but those were not cases where provisional advances were made. The only cases in which provisional advances were made were cases in which tenants were intending to hid in the Landed Estates Court. In those cases I think they got the whole amount asked for; they were not prepared to give large sums, and what they asked for was sanctioned on the condition that it did not exceed the three-fourths of the price paid in the Landed Estates Court.

2008. What was the character of the cases where the tenant and landlord had agreed upon the purchase money, and the tenant found he would not have three-fourths advanced to him?

There were some cases of that kind in which the transactions fell through in consequence of the tenant not receiving se much as he had sgreed with the landlord for.

2000. Not exceeding three-fourths of the purchase money, you mean. Not exceeding three-fourths of the purchase-money.

2010. In those cases where you value land for the purpose of seeing whether there is sufficient security for the advances applied for, do you value upon the same principle as that upon which you valued under the Church Temporalities Act?

I have to look to the selling value of the holding, that is to say, the security for the Land Commission's advance would be the combined interests of the laudlord and tenant, which are merged in one when the tenant becomes the purchaser of his holding.

2011. It is quite an understanding of your office that the security which is given to the Commissioners is the double interest whatever it may be both of landlord and tenant?

I should consider that it was, except in cases of sales in the Landed Estates Court. The Landed Estates Court conveys the holding to the tenant, subject to his own tenancy. In the case of a leasehold, that leasehold might be encumbered, and would not be a security for the advance. In the case of the sales by the Commission, the tenant's interest becomes merged in the fee, and therefore the security is practically increased.

2012. You were going to describe whether the principle of the valuation was the same as under the Church Temporalities Act?

I do not think I can say there is any principle of valuation in such questions. What I look to is my experience of sales in the market. There is a great dullness in the land market in Ireland at present, but we have the etatistics of sales in past years to refer to, and I must correct those to some extent by the depression there is in land. Quite apart from the agitation, I think there is some depression in land, owing to American competition, uncertainty of the future, and loss of farming capital during the bad years, and disinclination to invest in land.

2013. Enrl of Pembroke and Montgomery.] Do you not think that the late Land Act that was passed has greatly depreciated the value of the fee-simple as

well? I have no statistics whatever to go upon. I think it has probably diminished the saleable interest of the landlord, but I do not know that it has had any effect in diminishing the value of laud sold unencumbered by the tenaut's interest.

Вв 2014. Chairman.] (0.1.)

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Mr. O'BRIEN.

[Continued.

have

- 2014. Chairman.] At the present moment I suppose you would say that there is not a market for land in Ireland, and that there is no real buying and selling of land in Ireland at the present moment?
 None, hardly.
- 2015. Therefore, in valuing the land, you do not value it at what it would letch if it were put up to auction now. No. I do not.
- No, I do not.

 2016. Viscount Hutchinson.] With regard to depreciation of land by American
 competition, do you believe that that diminution which you think exists extends

both to agricultural land and grazing land?

Yes, 1 bink it Oos. I may say that the depociation in the silling value of land is quite spart from my own opinions upon the subject, because I think the land that have from competition will inflavour land us well. For instance, if find that the writings of Mr. Biske, who is the Momelter for Waterford, see widely read through brinded up team farmers. In the land the land that land the land that l

2017. I have heard it said by a great many people, and by Americans themselves, that what is likely to influence the price of land in Ireland is the importation of American corp, but that we have no very much to far from the importation of American cattle?

I should agree with that, but there are numbers of people just as well in-

formed as I am, or better, who think differently.

2018. Then it is a moot point? It is,

2019. Chairman.] Is it your opinion that tenants in Iroland are now disposed to buy their holdings at a reasonable rate of purchase if they could receive sufficient accommodation as regards purchase money; I mean are they disposed to become purchasers?

I think they are. Besides these transactions which I have mentioned, the Commission have been saked by two landlords lately to negotiate the sale of their estates to the tenants. Three two estates comprised 350 tenants, and the rectult was about 5,000 L a year. I went down and visited those trenants, and visited agreat number of their farms; they are all ready to buy, but not ready to give a high price.

2020. Lord Penzame.] Are they ready to give a fair price for their furms? Well, fairness is a matter of opinion.

2021. In your opiniou, I menn?

Some of them are. We are now in process of receiving proposals from some of them. In one cases the landford usuand the price which he expected for his center. In my opinion he named a price which he would not have got in the crup best of times, it he other landford. Indicate, would sell at a price, at which you will not find 300 men all ready to do the same thing or the same time, saud in the same way.

2022. Marquess of Abercorn.] Would those tenants generally give 20 years' purchase?

purchases?

I think those tenants would give nearly 20 years' purchase of a fair rent; but
I may say that in part of that district the poor-rates amount to 6 s. in the pound, it
the county rates amount to between 3 s. and 4 s. in the pound, and the tenants will

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have to pay the whole of them if they become hayers, and therefore the number of years' purchase in that district would not be any guide to a district where the soor-rates are 6 d, in the pound,

2023. Lord Brabourne.] Just now you said that in consequence of reading some statement of Mr. Blake's, a great number of the tenantry of Ireland bad an intelligent notion of the further depreciation of the value of land; do you mean to imply that they have an idea of a further reduction in rents? No; I merely mentioned Mr. Blake's writing as a sample of opinions held by

men who have taken a great deal of trouble to inform themselves upon the subject. 2024. Of course if a large number of the tenantry of Ireland have an idea

from a particular cause, or from particular writings, that land is to be further depreciated, that might keep them out of the Land Court, because they might think that hy waiting they would get a still further reduction of rents, owing to

the value of land being still further depreciated? What I referred to was not the judicial settlement of rents, but the value of land independently of such litigation.

2.25. Is the rent at all determined by the fair value of land? The fair rent, no doubt is; but I was considering the matter altogether apart

from the question of the judicial settlement of rents.

2026. Duke of Somerset.] The Committee were informed by Mr. Godley that the position of remarks is now so favourable, that he did not think many tenants would be willing to become purchasers; is that your opinion?

I think tenants are ready to become purchasers. 2027. You think, therefore, differently to Mr. Godley?

I should like to guard myself by saying this: it is difficult to speak in general terms of the tenants, who are a vast body in Ireland. They think differently in various parts. In some parts of Ireland they think that their rents are now settled, and will never be changed; they think they will never be increased again. In other parts of Ireland they think their rents are being settled only for 15 years, and there are a variety of shades of opinion between those two.

2028. Mr. Godley stated it us his opinion that they perhaps might purchase where they only paid by instalments, but that where they were required to pay down any sum of money they would not parchase at all?

In some cases I think they are ready to buy.

2029. Even paying down? Even paying down, but the number of tenants in Ireland with money to pay down is not very large.

2030. Chairman. As between the two states of things, buving now, on whatever may be considered fair terms at their present rent, or waiting to have the chance of what they can do in the way of having a judicial rent fixed, do you think there is a general disposition on the part of the tenants not to buy until the judicial rents are fixed, or that they would be willing to buy on fair terms

Tenants are, no doubt, to some exteot deterred from buying by the uncertainty which attaches to the settlement of rent; but on the other hand there are, I think, many tenants who would he glad to buy io order to avoid the expense and annoyance of a rent suit. The landowners are embarrassed just in the same way. They can hardly make a price for their estates until they know what the rents would be, and I think they would find it just as difficult to name a price at which they would sell, as the tenants to name a price at which they would huv.

2031. Duke of Somerset.] Have you found that the smaller tenants, tenants who rent under 12 % for instance, are willing to buy, or is it the larger tenants who are willing to buy? I think the smaller tenants would generally be most ready to buy.

(0.1.)2032. Chairman. 196 Mr. O'BRIEN.

[Continued. 21st March 1882. 2032. Chairman.] Then, looking to that element which you mentioned just

now, the uncertainty that exists both as against the tenant and as against the landlord, according to your knowledge of human nature, is not that just the orisis of events when it is most likely, in order to get rid of that uncertainty, that both parties would be willing to come to terms

It would be an assistance in some cases to bring people to terms, but in other cases it deters them. The one party hopes that the rent will not be reduced, and the other hopes that it will be. If both entertain exaggerated expecta-

tions they are not likely to agree about the sale and purchase

2033. Karl of Pembroke and Montgomery.] I want to ask you what proportion of the applicants purchasing have been tenants holding under a lease? I could not auswer that question exactly, but very few of them have been

holding by lease. 2034. Is it not the case that a tenant holding under a lease would have a

far greater inducement to purchase than a man who had a yearly tenancy and could apply to the Court for a reduction of rent?

I do not see that there is a greater inducement to a leaseholder because he is protected by the terms of his lease against any enhancement of rest during the terms of the lease, and at the end of the lease he becomes, I believe, a present tenant, but it does not seem to have affected the applications that have been made to the Land Commissioners hitherto. There have been more yearly tenants than leaseholders.

2035. But he canuot get his rent reduced, can he? He cannot get his rent reduced.

2036, Chairman.] What is done by the Commissioners with regard to the quit rents to which the landlord may be subject; do they require them to be reduced?

In the only cases of the quit rent payable to the Crown that have come hefore the Commissioners, they have required that they should be rede-med. They have no power to apportion them, nor would they have any power, I believe, to allocate them to one particular holding; there is considerable

difficulty, I believe, about their redemption, 2037. Do they require them to be redeemed? They would require them to be redeemed.

2038. And at what rate of purchase are they redeemed? Quit rents, payable in small sums, are redeemable (I do not know whether by

Act of Parliament or by the regulations of the Woods and Forests), at 28 years' purchase. If they are larger than a pound or two, the rate of purchase is less.

2039. Is it not in the power of the Commissioners to give an indemnity against the quit rents on a sale? Does your Lordship mean to the Woods and Forests, who are the receivers

of quit rents ! 2040. No; an indemnity to the purchaser? I do not think they can. I do not think the Woods and Ferests would assent

to an indemnity of that kind. The rents are payable out of certain lands, and

the Commissioners would have no power to free those lands by giving any other security. 2041. Was there no power under the Act of 1870 to apportion head rents or

quit renta?

The Landed Estates Court have power to apportion head rents. I do not know about quit reuts, but the existence of head rents is a great obstacle to the operation of these purchase clauses, and, if you would allow me, I should like to make a statement with reference to the head rents. Any estate which is subject to a head rent is practically unsaleable in small parcels, and therefore cannot be sold under the Land Law, because the Land Commissioners have no power whatever to apportion the head rest. The owner of the estate, which is subject 21st March 1882.7 Mr. O'BETEN.

subject to the head rent, might of course purchase up the head rent, and then sell the land in fee; that is, if the owner of the head rent were willing to sell it, but that is not always the case. A head rent may form part of settled property, and therefore not be saleable, or the owner may not wish to sell it, or knowing the owner of the estate wanted to buy it, he might ask an exhorbitant price. I should say that generally, an estate being subject to any head rent, is a bar to its sale under the Land Law Act. And there is a very large extent of land in Ireland subject to head rents. It has been estimated that one-third of Ireland is subject to them.

2042. What kind of a head rent is it?

There are all kinds and varieties of head rents. The property of the late Established Church consisted, to a large exteut, of perpetuity rents. The landlord of the occupiers of the kad, being really a middle man who paid a large head rent, and received the rents from the occupants, and in the same way the estates of Trinity College are let at very large head rents; that is to say, large in proportion to the value. Many landowners pay head rents to private individuals. These head rents arose out of leases made a long time ago, and very often from renewable leases converted into fee farm grants under the Renewable Leasehold Conversion Act. But the fact is, a great part of Ireland is subject to these head rents, and therefore cannot be dealt with under the Land Law.

2043. Because there is no power to apportion them? There is no power to apportion them.

2042. Is it your opinion that it would add to the efficacy of the purchase clause very much if there was power to apportion the head rent? It would be very unfair to the owners of the head rent to apportion it.

2045. We will come to that afterwards: that is a matter affecting the policy of doing it; do you consider it would add to the efficacy of the clauses?

I think it would make land saleable which now cannot be sold, but that is not the suggestion that I should make with regard to head rents.

2045. What is due with regard to head rents when land is taken compulsorily under the Lands Clauses Act ? I do not know, but generally speaking only a small portion of land is taken

under those Acts; the remainder of the land would be ample security for the head rent.

2047. That is not the way Parliament proceeds; what is done? I do not know how they do proceed.

2048. Have you never looked at the Landa Clauses. Act for the purpose of seeing how the head rents were dealt with? No, I have not.

2049. I forget what you said was the total number of cases that, since the Act of 1881 had been passed, had been brought under it for the purpose of purchase and sale?

There have been 48 applications, embracing 158 tenancies. 2050. Let me understand that; what is the reason of the difference between

48 applicants and 158 tenancies? A landlord who is selling to several tenants makes one application, but he may have several tenauts embraced in his application.

2051. Were those applications to sell the estate to the Commissioners to be resold to the tenants, or applications by the tenaut on a purchase from the land-

Two of these applications to the Commissioners were to buy the estates; the rest of them were applications for advances to enable tenants to buy from their landlords. In the case of one estate the Commissioners have completed the sale and sold to the tenants. The second case is now in process of completion and will be effected; in those two cases the estates were for sale in the Landed Estates Court.

2052. In (0.1. в в 3

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Continued.

2052 In the cases where the Commissioners buy who pays the casts ? The Commissioners will not buy any estate until they have ascertained that the tenants will huy from them; they have no power to do so. They ascertain it by requiring the tenants to lodge the mnney beforehand; that money must be sufficient to cover all costs ennuected with the sale. The Commissioners ascertain what the costs will be of effecting the purchase from a landlord or the Landed Estates Court, and the reconveyance to the tenants, and then they must deduct that sum from the gross amount which the tenants pay them, in order to arrive

at the sum which they pay for the estate. 2053. I do not quite understand that a landlord proposes to sell to the Commissioners at a certain sum ? The Commissioners in that case cannot buy the estate until they ascertain

what sum the tenants will give them for the estate. 2054. Suppose there are 50 or 60 tenants, how do they ascertain what sum

each tenant will have to give? In the cases that have come before the Commission hitherto, the sellers of the estates have arranged with the tenants beforehand at what price each would huy. 2055. Then they make the aggregate sum the purchase money, do they?

The aggregate sum paid by the tenants was not the sum which the Commissioners paid to the sellers of the estate, because they had to allow for the costs of the conveyance to the tenants. The Land Law Act prohibits them from making any separate charge in respect of the deeds of conveyance or any of the costs, therefore that must be included in the purchase money that any tenant pays.

2056. Do you mean that the aggregate which the tenants are ready to pay must be a larger sum than that which the Commissioners pay the owner? Yes, the difference guing to cover costs.

2057. The margin being sufficient to cover the costs?

2058. The result of which is that the landlord pays the costs?

You may look at it in either aspect, the landlord pays the costs or the tauant pays a little more in consideration of getting his deeds free of any extra charge-In one case that the Commissioners have completed, the tenants agreed to huy at a certain price, and then to give something more to cover the costs of their conveyance, but that agreement was made outside the Commissioners' knowledge altogether. We simply took the gross sum that the tenants would pay, and paid to the vendors a sum less by the amount of costs.

2059. Then when you say they require the tenants to lodge the money, you mean to lodge one fourth of the money? Yes, to lodge one-fourth.

206n. With a certain amount to cover costs? We do not go into the question of whether there is a certain amount to cover

costs, because the Commissioners prohibited from making any separate charge-If a man says I will buy my holding for 100 L, and the costs of having it and conveying it would be 10 t, the Commissioners would then say to the landlord we will give you 90 l.

2061. This is Section 26 of the Act, Sub-section 5: "In sales by the Land Commission to tenants in pursuance of this section, a separate charge shall not he made for any expenses relating to the purchase, sale, or conveyance of the property, hut such expenses shall be included in the price or fine payable by the purchaser." The price or fine payable by the purchaser is to go to the owner? In the case of a tenant purchasing from his landlard, if there was no agree-

ment the tenant would be liable for the costs of the mortgage at any rate to the Commissioners, and I suppose according to the usual custom for the conveyance from the landlord to him; but in those cases the Commissioners do not interfere at all, and it has been generally arranged between landlord and tenant that the landlord 21st March 1882.7 Mr. O'BRIEN.

landlord should pay all the costs. In same cases the tenant has paid, but generally speaking the landlord has said, "I will pay all the costs connected with the sale, and they fix the price with regard to that agreement," but where the Commissioners buy the estate the case is different. They are not allowed to make any separate charge, and therefore they pay a less sum to the vendor than they receive from the tenants.

2002. Viscount Hutchinson.] In fact to put it into figures, we will suppose that the landlord informs the Commission that he is willing to sell the estate for 1,000 L, and that the costs of the transfer will be five per cent, upon that, or we will say 50 L : then the Commission will take 1,000 L from the tenant, and merely hand over to the landlord 950 L?

If the landlord were willing to sell his estate for 1,000 L, and the costs of the conveyance to the tenant would be 50 L, the Commissioners would require the tenant to lodge one-fourth of the 1,050 l., and they would pay the landlord the

2:03. Chairman.] Then in calculating the three-fourths which they advance to the tenant, do they calculate upon the larger sum or the smaller sum? Upon the larger.

2004. Looking to the number of cases which you have mentioned as having taken place under these clauses, do you consider that those clauses can be said

to he in active operation? I think they are only beginning to come into operation. We have had a great number of inquiries from landlards who are endeavouring to negociate the sale of their estates. A large part of the business in my department is answer-

ing juquiries from landlards either personally or by letter, and so far as I know a great number of landlords are endeavouring to sell to their tenants. 206s. But that is but one side of the case? It is, but certainly the tenants are not always ready to meet the landlards in the matter of price. Very little has been done hitherto under these clauses, but

the amount is increasing. 2066. Is it increasing as comparing one month with another?

Certainly, during the last week there have been a great many applications Iodged.

2007. Applications by whom? Applications by landlords, including agreements by tenants to purchase,

2068. Agreements between landlord and tenant on application for advance?

2069. Marquess of Salisbury, Do you know how many applications there have been in the week ?

I could not tell you; I have given you the total number, but more have come in during the last week than came in during the previous weeks.

2070. Chairman.] What is the present advantage which a tenant has in having under the existing state of the law? The advantages of ownership over tenancy.

2071. That ownership brings with it the accompaniment, which some people would think disagreeable, of paying the taxes? And his instalments ounctually.

2072. Now let us take a case; a tenant of a larger kind pays 50 l. a year; he is a purchaser at 20 years' purchase (we will put saide the question of costs. until it is material), 1,000 l. has to be provided for; he has an advance from your Court of 750 l. What does he pay for that:

He pays 37 l. 10 s. 2073. Then he has to provide 250 l.; he has to horrow it if he has not got it; what do you put that at?

I do not think he can borrow it at less than five per cent, or six per cent, B B 4

2074. I think

(0.1.)

21st March 1882.]

2074. I think some parts of your evidence before the Commission showed that he sometimes borrowed at much more than that?

In the case of the sales to the church tenants, there were instances where very much more was paid; but taking it all round, the church tenants did not pay very much.

2075. The church cases were exceptional cases; we will take it at what may be considered a fair medium rate of interest, what would you put that at?

I should say six per cent. at present, but I may say that landlords who are selling to their tenants and leaving one fourth out, generally leave it at four per cent.

2076. We will not assume that the landlord might or might not be willing to do that. What sum would you put for rates and taxes which now fell upon the owner, and which would then fall upon the tenant? I should say in ordinary parts of Ireland that there would be at least 5 l. more: that would be a low estimate.

2077. Then what would be the aggregate of those annual payments? £.57 10 s.

2078. So that the change of his position would entail an additional annual

payment of 7 /. 10 s.? It would.

2079. Do you think in that state of things tenants will be induced to become purchasers?

I do not think that there are many tenants who would be prepared to become purchasers at present, at a price which would involve a larger annual payment than their present payment. There are some cases where now a man is anxious to become owner, and would pay a little more for it, but I am speaking generally, where the tenant bas to borrow the money which he should pay down, and I do not think they are very anxious. Of course, there are a number of tenants all through Ireland, who have the money and who would be glad to invest it in this way; they may not he a large proportion, but still there are some.

2080. You think there are not a large number? Not a large proportion.

2081. Still, with regard to that, the money would be of a certain value; what would you put that value at? If their money was in the bank they would not get more than 14 or 2 per

2082. Is that where they keep their money; do they not turn it over in their

business, or by making loans of another kind? Some farmers do lend money to their neighbours at a high rate of interest, but

there is a certain amount of risk and insecurity shout it; and I am told that many keep their money in the bank, 2083. Lord Brabowrse.] It was stated in the debates upon the Land Bill, I remember, by a Minister, that the amount deposited in Irish banks had enormously increased of late years, the principal depositors being agriculturists;

I think he said the deposits had risen in seven or eight years from 7,000,000 L or 8,000,000 L to 30,000,000 L; do you know snything about that? I could not give you any figures upon that subject.

2084. Have you any doubt of the fact?

I do not know anything about it.

2085. Duke of Somerset.] Supposing a tenant to have bought his land, paying this sum of 57 L 10 s. a year as you made it out, then supposing he is himself in bad health, and he is obliged to go away from his farm, and wishes to let it; in what position will be he as regards the tenant to whom he lets it; will the tenant then again come under the Act of 1881, or what will happen it

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21st Morel 1882.1 Mr. O'Bruck.

The Land Law Act prohibits his letting it except with the consent of the Commission.

2086. He cannot let it?

He cannot let it except with the consent of the Commission.

2087. Then he is in a worse position than ever; because supposing he is in had health, or has had a paralytic stroke, or something of that kind, and is ohliged to go away, what is to happen to his land?

He could sell it.

2088. He might be able to sell, but supposing he cannot sell it, he cannot let it?

I do not suppose that a tenant buying his hand would look forward to that; it would be only a possible occurrence, but he might be influenced to some

extent by the restrictions which are imposed upon purchasers. He could neither sublet it nor subdivide it without the consent of the Commission, and any breach of those conditions might be followed by the sale of the holding by the Land Commission.

2080. Take another case; supposing the tenant who has purchased his holding dies, and leaves it to his son, and his son is only a lad of 15, and the family wish to let it until the son comes of age, what is to happen then?

If permission were given by the Land Commission to let it, I presume that the proprietor letting it would be in the same position as any other landlord.

2000. He would be under the Act of 1881?

He would be under the Act of 1881. 2091. Lord Kenry.] The son could not get possession of it then, could he? I think he could let it for a term of years certain, with right to resume pos-

session at the end of it. 2092. Marquess of Abercorn.] He would have to pay tenant-right, would be

not, at the termination of the period for which it was let ? There are restrictions upon his letting it, but there are clauses which exclude the Act by agreement, and a man might let it, excluding the operation of the

Act altogether. 2003. Do you find that the tenants who bought from the Church Commission are prosperous or not ?

Their condition varies very much; some of them are very prosperous; others are very much embarrassed. Many of them bought at very high prices just at the very best of times, and the depreciation in land generally, and the had seasons that followed immediately after their buying, embarrassed them very much.

2004. Lord Kenry.] Have there been any applications for assistance to purchase fee-farm grants? I do not think any application of that kind has been lodged.

2005. Earl Stanhone. You were going to make a suggestion just now as to

how to get rid of head rents, in order to make lands more saleable. What is your scheme? I think the existence of those head rents is such a bar to the sale of estates, that if it is desirable to free as much land as possible for sale, it would be very

well to deal with it in some way. Apportionment of the head rent would seem to me to be unfair to the owner; he would be brought into contact with persons who would not pay him, as well as the landlord; he would also have the collection of several small sums instead of one sum.

2006. What suggestion do you make with a view to meet that? The suggestion I should make would be that the Commission, if they buy an estate subject to a head rent, should have power to sell the land in fee to the tenants, discharged of the head rent, taking upon themselves the liability to the head rent. That would be a charge upon the funds of the Commission, or I suppose (0.1.)

public.

ments to fifty years.

21st March 1882.7 [Continued. Mr. O'BRIEN.

suppose it would really he a Government guaranteed security lostesd of a head rent. It would increase the value of the head rent, but I do not see that it would increase its value at the expense of any person or at the expense of the public. If the owner of the head rect wished to sell it I would give the Commission power to buy it up, but I would limit the price which they might give for such head rents. In that way these head rents would be got rid of without loss to anybody and with some advantage to the owners of them,

2007. How would you limit them; how many years' purchase would you think fair?

Such charges would be saleable in the open market for whatever they would fetch; but if the owner of them applied to the Commission to buy them up I think the Commission should not be empowered to give more, or not much more, than their market value. The market value of head rents is not very high

in Ireland. 2008. What is it; how many years' purchase?

I believe, taking them all round, they do not sell for more than 18 years' purchase. In many cases they sell for more, but it is where there are reservations heside the mere money rent.

2099. Lord Tyrone.] I suppose you refer to sales effected before the passing of the Act?

Certainly. I have no exact statistics, but from inquiries I have made I believe they do not sell well, and I should limit the amount which the Commission should pay in buying up these head rents to 20 or 21 years' porchase, but I think also that they should be empowered to pay anything for any reservation in addition to the rent which could be shown to have any value. I think it would be well if snything of that kind were done that there should be a scale. A head rent which was well secured should be purchasable by the Commission at a somewhat higher rate than a head rent badly secured. There are many estates subject to a bead rent so large as practically to leave very little profit rent. Those would not be worth as much as a head reot secured by a rental of 10 or 20 times its value, and I should make a difference in the rate of nurchase of the different head rents according to the security they offered.

2100. Eurl Stankope.] May I ask you on that subject, when you were under the Church Commission, what you purchased head rents for?

The Commissioners did not purchase any head rects, but they were the

owners of a great number of perpetuity rents. The price fixed by the Act was 25 years purchase, but they were not found saleable at that price. Some owners of land bought them up, but they were not saleable to the outside

2101. Lord Tyrone.] Are you of opinion that the creation of a peasant proprietary would be of advantage to Ireland? I do not think a universal system of peasant proprietary would be necessarily

an advantage, but I have always thought that a peasant proprietary scheme was the fairest way in which to settle the great difficulties connected with the land teoure in Ireland

2102. Chairman.] If any arrangement could be made by which the annual instalment payable by the tenant on his purchase could be made not to exceed, or still more, to be less than, his present rent, do you consider that that would

lead to a large influx of tenants taking advantage of these clauses? The more advantageous terms you offer to the tenants the greater will be the number that will buy. It will also necessarily be essier for owners of land to sell, if the terms of re-payment of advances are made more favourable to the borrowers. I think it would be very advantageous to extend the time of repay-

2103. What rate of per-centage would the instalment require to be placed at to enable it to be paid off in that time ! I could not tell you.

210a. Rarl

SELECT COMMITTEE ON LAND LAW (IRELAND). 2104. Earl Stankope.] Have you my other suggestion to make about these purchase clauses?

1 have. Section 25, which empowers limited owners to sell, is practically inefficacions, I think. The Act gives a limited owner absolute power to sell, and to leave one-fourth of the purchase-money out on morrgage with the tenant, but the purchase-money is then made subject to the Lands Clauses Consolidation Act. The provisions of that Act were very suitable to the enforced sale of small parcels, which were always hought at a very high price, and under that Act only small portions of estates were sold, the rest of the estate remaining as before, subject to the limitations and settlements existing beforehand. The estate was not broken up, but this Act contemplates the breaking up of large estates, and the provisions of the Lands Clauses Consolidation Act are wholly unsuitable to

2105. Marquess of Salisbury.] Which provisions do you refer to? The provisions of the Lands Clauses Consolidation Act, which regulate and

deal with the application of the purchase-money, 2106. The re-investment, do you mean?

The re-investment.

2107. In what direction would you amend them?

I should repeal the 25th section of this Act, and enable limited owners and their trustees to sell and invest in certain specified classes of security without the

intervention of the Court of Chancery, 2108. Chairman.] I observe in this 25th section of the Land Act, the words, "the promoters of the undertaking shall be construed to mean the tenant." The

tenant is to be the promoter of the undertaking?

2109. But the promoters of the undertaking in the Lands Clauses Act paid all the costs of the proceedings? That is so.

2110. Is that hurden thrown upon the tenant here?

That burden is thrown upon the tenant here, and that would, if he understood it, deter him from curclessing from a limited owner. It being a question of law of which a tenant could not know himself, it would not deter him, but it would be very unfair to come down on him afterwards for the costs of the reinvestment of the purchase-money. Moreover, I think it would be impossible to do so if the landowner sold to a number of small tenants.

2111. Does it mean that the tenant would have to pay the costs of applying to the Court of Chancery for investing three-fourths of the settled money?

Yes. 2112. And that would be the case every time it was necessary to make an

application, however often it might be ad infinitum? Yes, but limited by the decisions under the Laud Clauses Act.

2113. Marquess of Salisbury.] What class of investment would you allow for the reinvestment? I am not prepared to recommend any investment, but there are many other

safe investments in addition to those permitted by the Lands Clauses Consolida-tion Act, which are merely Consols, Bank Annuities, and Government and real securities. 2114. I presume you think it would be necessary to limit the trustees of a

limited owner to a safe class of investment? Cortainly; but I think it would be better still if on the sale of an estate the life tenant could be paid the capitalised value of his interest, and the

balance paid to the remainder-man, or invested to accumulate for him. 2115. Chairman. All that would be necessary would be that the money should be paid to the trustees of the settlement to be held on the trusts of the money produced by sale and exchange; is not that so? C C 2 But

(0.1.)

Mr. O'BRIEN. Continued. 21st March 1882.7

But in many cases trustees have not a power of sale; and even if they have the power, I think the trustees would very unwillingly undertake the responsihility of changing investments; therefore it would be safer and more convenight for them simply to allow the money to be paid into the Court of Chancery. as provided by the Lands Clauses Consolidation Act, where the money must remain, unless someone becomes absolutely entitled,

2116. Then these small sums, as you very properly say, would involve expense every time an application was made to the Court of Chancery?
They would. I think the section is wholly unsuitable.

2117. Besides, the Court of Chancery will not take money except in suance of an order of the Court, and the tenant must then get the order of the Court, must be not?

Yes.

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2118. Earl Stankope. The Court of Chancery also, as I understand, insists upon title being proved, and for that purpose an estate bas first to go into the

Landed Estates Office: is not that so I do not know that that is the case, because I think if the Commission hought

an estate of a limited owner they would have power to pay it into the Court of Chancery. I do not know whether the Court of Chancery could refuse to receive it under those circumstances.

2110. But the Commissioners, as a matter of fact, according to what you have just said, never do huy from an owner; they huy from the Landed Estates Court. The two instances you named were purchases of property from land-

lords that had passed through the Landed Estates Court?

The Commissioners would hay from any individual owner without the estate passing through the Landed Estates Court, provided the title was satisfactory; but the bardship in this case would be that of a teuant buying from the limited owner, his landlord cetting an advance from the Land Commission on his holding, and afterwards being liable to the promoters for the costs of reinvestment.

2120. Chairman.] In the case you suppose, the Land Commission have got a staff of legal advisers of their own; they must of necessity look into the title deeds for the purpose of seeing that the tenant for life is tenant for life, and has the power to sell under this section; what would he the difficulty of their also taking the obligation of seeing to whom the purchase money should be paid, I mean to what trustees it should be paid, and paying the purchase money. The tenunt is a very unsuitable person to do it; the Land Commissioners could do that without any additional expense, could they not?

If the Land Commission hought an estate, they would be in this sense the promoters.

2121. I am putting the case of not huying the estate, hut of an agreement between landlord and tenant, the tenant coming to get an advance from the Land Commissioners. They must know the whole transaction then, and the whole of the title. Why should not the purchase money he paid through them to the trustees of the settlement, subject to the trusts?

I do not see any objection to that, but I suppose there is a limitation generally on the investments in which trustees may place the money, and it would be a greater inducement to limited owners to sell if they could receive the capitalised value of their life interest at once.

2122. Lord Kenry.] I do not suppose it would be necessary to induce the owners of land to sell, would it. I mean to say, all they would require would be the additional price?

Any price obtainable for land would involve a large diminution of income when invested in Consols or in first class securities.

The

2123. Chairman.] Not always, would it? Nearly always in Ireland.

2124. Lord Tyrone.] Do you refer to the sale price?

905

I am

91st March 1889.7 Mr. O'BBIEN.

The sale price at any time. The price of land has never reached the number of years' purchase in Ireland that it has in England.

2125. But according to the price at which you sold land under the Church Temporalities, if that money had been invested in Caosols would have produced

almost as much as it did under tenants, would it not? The Church Commissioners' property sold generally at 23 years' purchase. That was taking the average of a great number of properties in many different

parts of Ireland; some sold for 50 years' purchase, and others for two or three years' purchase, and the average is only arrived at by taking these very great differences. In the same way you average the price of land in the Landed Estates Court. That is reached in the same way. Some estates have sold at 50 or 60 years' purchase, and there are other cases in which they sold at five, six, seven, or eight years' purchase.

2126. Chairman.] How many of such cases were there?

Few extremes, but the average of those extremes is only 21 or 22 years' purchase at the outside in the best of years.

2127. Is it not the case that there were only 37 lots in the whole of the twoand-a-quarter millions that sold for less than 15 years' nurchase in the Landed Estates Court?

The two millions-and-a-quarter sold under the Bright Clauses, does your Lordship mean?

2128. Yes, according to the Parliamentary Return? I am not acquainted with the figures you refer to, but there are numbers of cases in the returns of sales in the Landed Estates Court where the price has heen below 15 years' purchase, and many below 20 years' purchase.

2129. Is it not the case that there were 37 lots in all out of the whole of the estates in the Landed Estates Court producing 77,100 L in the whole, that sold

for less than 15 years' purchase? I do nut know. Those figures must refer to one particular year, I think. That could not be the whole of the transactions of the Landed Estates Court, for

they have sold a very much larger amount than that. 2130. Lord Kenry. Do you know personally any cases in which they sold for

less than 15 years' purchase? I du not recollect any particular instances.

2131. Chairmon.] You wrote, I think, a letter to one of the newspapers, giving the most conspicuous instances you were ucquainted with of land that

had sold under 15 years' purchase, did you not? There was a correspondence going on as to the rate at which lands had sold, and one writer challenged another to produce instances of land being sold at less than 10 years' purchase, I think, or 15 years. I happened to have the returns by me, and, looking at them, I found that there were many cases below

the figures mentioned; of course the average is only reached by taking cases very much above the average, reaching in some cases to 63 years' purchase. 2132. But the cases which you selected as instances were out of the Parliamentary Return, were they not, for the years 1875-6-7?

They were. 3133. Did you go through the circumstances of the cases you mentioned?

No; those were returns of land sold subject only to the quit-rent and tithe rentcharge, and show as great variations as the larger returns. 2134. I think one of the cases mentioned was the case of an estate of 1,880

acres in the county Galway? I do not recollect the circumstances, but I know that the returns are returns

of land stated to be only subject to the quit-rent and tithe rentcharge. 2135. You are not aware, I suppose, that that estate was subject to a perpetual annuity of 200 l. a year?

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21st March 1882.1 Mr. O'BRIEN. Continued. I am not aware of it. It is not stated in the return, and in most cases where

there are those modifying circumstances it is stated in a note, but those returns purport to be returns of land that are not subject to anything. 2136. So that if that annuity of 200 l. a year was taken off, the purchase

would be at the rate of 18 years' purchase instead of eight? I am not aware that the writer who answered my letter referred to the same circumstances; certainly from the returns it would not seem that he did.

2137. I see this is a statement made by a person who says that he was aware

of the fact; you have not looked into that case yourself, have you? No; nor have I the means of looking into it, because the return would indicate that there was no such change on the estate.

2138. Marquess of Salisbury. Would the result of your proposal to enable the limited owner to have his life interest capitalized, and carry it away and

do what he liked with it, be to induce him, especially if he was in want of money, to sell the inheritance for a much smaller number of years' purchase than would be justifiable? I suppose that the parties entitled in reversion would have an opportunity of

intervening, and that the estate could not be sold without their concurrence, if they were competent to protect themselves, and if he were not competent he should not receive the capitalised value of his life's interest. 2130. Then you must go to the Court of Chancery in any case or to Landed

Estates Court, in order to protect these unrepresented interests, must you not? I do not see why they should not be protected through the process of sale in the Land Commission Court. It would be possible to give interested parties the power of intervening there as well as before the Court of Chancery.

2140. Chairman.] Bot if the parties consent to divide, they may do it without the Court at all, may they not. If they are competent to take care of themselves, and if the proceeding depends upon their consent, they can do that without the Court, cannot they?

I do not think they could do so in the case of sales by limited owners. As far as I understand the Act, the money must be paid into the Court of Chancery, and must there remain, no matter what the parties wish, until it could be paid to the parties entitled.

2141. You used the expression, "If able to protect themselves," that is, if they are sui juris, if the tenants in remainder are able to protect themselves, in that sense they may divide it in any way they please, may they not? In that case there would be no use in the suggestion I have made,

2142. With reference to a sale io the Landed Estates Court, perhaps you remember the case of the estate of one Bury?

Yes. 2143. Do you recollect the case of a lot on that estate which the tenant was

desirous of purchasing, and applied to know what advance would be made for the purpose of purchasing it through your Court? I recollect the case, but I do not recollect the tecant, because I have never

seen the tenant. The solicitor having the carriage of the sale of the estate came to see me in my office. 2144. What was his name?

Daniel, I think. He told me the tenant bad agreed to give 1,000 L.

2145. You mean he bid at the sale 1,000 L. It was to he sold in the Landed Estates Court, was it not? It was, but I suppose he would have hid the same, because, practically, it was

understood there would be no bidding against the tensnt, who was a woman. She had reduced the amount to 900 L; I do not think I ever saw the tenant, but I told the solicitor that we should have an application from the tenant, and if possible, a personal interview with her, because the price to he paid, which was 30 years' purchase, seemed exceedingly high.

2146. Would

21st March 1882.]	Mr. O'BRIEN.	[Continued.

21.45. Would that he 30 years' purchase? Thirty years' purchase of the profit rent. There was a profit rent on the estate; it was not a fee simple. The amount asked for was sonctioned and advanced to her; at the sale there was an udverse bidder, and the price rose to 1,000 Z.

2247. The property was held under lease, was it not?

The property was held uoder lease.

2148. And according to the memorandum which I have, the rent was 53 1. 14 s. 6 d., with a head rent of 18 l. 9 s. 3 d. ; is that sor I am sure the figures are right, though I do not remember them.

2140. Would that he shout 30 years' purchase, the rent being 53 i. 14 s. 6 d., and the head rent. 18 L 9 s. 3 d. ?

I recollect there was an allegation made that I had endeavoured to depreciate the value of the landlard's property, but what I did was this; I thought it

right that as the solicitor professed to set for both landlord and tenant, the tenant herself should appear before us. 2150. Then the tenant ultimately purchased, I helieve?

The tenant ultimately purchased at 1,000 L 2151. And what advance was made to her?

Three-fourths of the purchase-money. The amount sanctioned first was threefourths of the 200 L, which she said she would hid, and on her hidding the 1,000 L a further advance was made.

2152. Lord Tyrons.] Was a less sum than three-fourths offered her at first? The sum she asked for in each case was granted. She first asked for the leaser snm, intending to hid only 900 L, and then subsequently she increased the nmount.

2153. Chairman.] One more question I should like to ask you on a subject which we have passed from. You spoke of the priociple on which you had valued, and I understood you to say that you did not take into account the market or the competitive value of the land; is that so?

Does your Lordship mean for the purpose of sales or lettings?

2154. For the purpose of fixing a judicial rent? The competition value is of course an element. It is very difficult to g t sta-

tisties of the competition value of lands for letting, because the competition for farma in Ireland usually arises in the sale of tenant-right, and is a matter of the sale and purchase of the tenant's interest. Of course I do take into considerstioo, to some extent, what land would fetch if put up to competitioo, but I do not think that a landlord ought to let his land, or that be would be wise in his own interest in duing so at the highest rent that would be offered if it was pur up to competition.

2155. Then you did not mean to say that it was not an element? Certainly not.

2156. It is an element in the valuation? Certainly.

2157. Earl Stanhope. You said, when you first came into the room, that you were particularly answerable for carrying out this part of the Land Act of

1881? Yes. 5158. I went to ask you whether the Land Commission has applied to the Treasury for loans, either for the purpose of emigration or for the reciamation

of waste land under Clause 31? The Commission have nothing to do with the reclamation of waste land.

2150. Clause 31 is, that leans may be advanced by the Treesury for the reclamation of waste land, and also for the general purposes of agricultural improvement; 004 (0.1.)

21st March 1882.7 Mr. O'BRIEN. [Continued.

provement : I want to know whether your Commission had anything to do under that clause?

We have nothing to do with the reclamation of land; that is altogether in the hands of the Board of Works. With regard to emigration, the Commissioners have done nothing at all at present. They have no power to advance money except to an estate, colony, or public bodies, or some one authorized by such hodies, who submits to them an agreement which would comply with the conditions of the Act. The Commissioners have had communications from numbers of people in different parts of Ireland, showing that there are great numbers of people anxious to emigrate.

2160. Marquess of Salisbury. Have you say idea how many? No: I have no idea whatever.

2161. Chairman. I Is the emirration scheme nader your charge? It is

2162. Earl Stanhope.] If you have had these applications, why have you not been able to grant them i

Because we have not had applications from anybody but private individuals. I have here the circular by which we reply to the applications of certain individuals. (The same is handed in.)

2163. Marquess of Salisbury.] Can you give no idea of the number who desire to emigrate under these clauses?

I should have no means whatever of knowing that. I thought hourds of guardians might be considered public hodies, and that possibly any action taken under the Emigration Clauses would be through boards of guardians. We have had correspondence with one or two hoards of guardians or individual guardians

upon the subject; but it appears now that hoards of guardians could not horrow money from the Land Commission under this section for emigration purposes. 2164. Chairman, Why is that?

There are limitations in the Poor Law Acts which would prevent them being considered public hodies under this Section.

2165. Duke of Norfolk.] Do you mean that private applications are made, and no record kept of them?

The letters are all filed; but as we can do nothing with them we merely auswer them by sending the circular.

2166. You could answer them otherwise?

I do not think we could, because the letters written to us are very often vague, simply saying the number of families, or that there are several families wishing to emigrate.

2167. Lord Brabourne.] Can you suggest any alteration in the 32nd clause, which would make emigration likely to be more generally adopted, or adopted at all ?

I think that the question of emigration is totally foreign to the subject dealt with in the Land Commission, and that it is intimately connected with the administration of the Poor Lew. I think any emigration scheme, to be made effectual, should be worked through the Poor Law Board and the poor law guardians. If the poor law guardians, in any district, were known to have power to assist people to emigrate, public opinion in that district, or the people who wanted to emigrate, would compel them to act. Now they can do nothing at all under this emigration clause, even if they borrow the money from the Land Commission. The public generally think it is the Land Commission who are to act in the matter of emigration, and therefore public opinion is not brought to bear upon the boards of guardians; and I should suggest the emigration powers being transferred entirely to the hoards of guardians, subject to the control of the Local Government Board.

2:68. Marquess of Salisbury.] Do you think the boards of guardians would act at all? I think they would.

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2160. Lord Brabourne.] I understand you not to wish this clause to be amended, but to be made part of another Bill, because you think that it is out of place in its present position?

I think it is out of place in its present position, and that as drawn at present it is not likely to operate, even if the powers were transferred to the heards of guardians

2170. Earl Stankope.] When you heard under this Section 32 that there was a great number of people wishing to emigrate, did you then communicate with the board of guardians in that district, saying, is that the case, and do you wish us to act, or what step did you take ?

The only case which I can recall to my recollection is that of a great number of families being mentioned to us as in a state of destitution and anxious to emigrate. The letter was sent on to the Irish Government, and their attention was drawn to the fact that the Land Commission had no power to deal with those people at all.

2171. Rarl of Pembroke and Montgomeru. I Is it not the case that the board of suardians lahour under the difficulty that they cannot bind their successors ; have you heard that?

I helieve there is some point of that kind. They cannot pledge the rates, in fact, and would have no security to offer to the Commission therefore.

2172. Viscount Hutchinson.] You are aware, of course, that last year there was a good deal of talk about emigration to Canada and the colonies, and that it was suggested by the Governments of those colonies that they should be met half-way hy people promoting emigration at home. Under the present state of things, and supposing the hoard of guardians to be the sole hody to undertake anything of the sort, I do not suppose they would have the power to enter into any binding arrangement; for instance, to send colonists out to Quebec, and hind themselves to pov their expenses so far : I mean no satis-

factory arrangement to the Government of Canada, to take an instance? I do not think they would. I think that additional power should be given to heards of guardians to deal with the question, and I think there will always

he great difficulty in getting families, as contemplated by this section, to emigrate. The young and able-hodied are most anxious to go in numbers, but old people, and those who are encumbered with young families, of course would hesitate to go. I think that hourds of guardians should he empowered to acquire the tenant-right interests of any tenants in thickly populated districts who are anxious to emigrate. That would be some security to the rates. If a man living on a very small plot of land wished to emigrate with his family, and the beard of guardians paid his passage, and at the same time acquired any interest he had in that small plot of land, it would, to some extent, tend to relieve the rates there.

2173. Do you mean that to purchase his interest would relieve the rates? Yes; the man could sell his interest, perhaps, and go with the purchasemoney; but the sale of his interest might not give him enough to go with

his whole family. The hosrd of guardians might assist him to go, and acquire his interest. 2174. Lord Brabourne. Surely that would raise the poor rates very considerably in that district, would it not?

The object of that would be to save the poor rates. 1275. I do not see exactly how the purchase of the tenant-right would save the poor rates?

If they paid anything towards his emigration it would be for the purpose of eventually relieving the rates.

1276. But the immediate result would be to increase the poor rate for the Certainly. In some cases hoards of guardians have power now to assist
(0.1.)

D p individuals (0.1.)

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insecure.

individuals to emigrate. That is an immediate charge on the rates, but ultimately a relief. In this case it would be an immediate charge on the rates, but would be relieved at once by their acquiring his tenant-right interest and reseline it.

be relieved at once by their acquiring his tenant-right interest and reselling it.

2177. Chairman.] Do you think that boards of guardians would be safe desires in buying and selling land at the expense of the ratenavers?

I think they are the only public bodies available for the purpose. 2178. Marquess of Salisbury.] Is not their political instinct at present very

2178. Marquess of Salssbury. Is not their political instinct at present very much averse to emigration? I think that generally speaking there is an aversion to any general scheme of

It this this generally speaking there is an attempt to force emigration upon them; but where there are numbers of people anxious to go, I think the boards of guardians would be most anxious to co-operate and assist them to go.

2179. Are not the boards of guardians to a great extent in the bands of those who discourage emigration?

They are. I know a gentleman who is a member of a poor law board in the South of Ireland, a man who was foremost in advocating an application to the Land Commission for a loan for the purpose of emigration, and at the same time a member of the Land League.

2180. Lord Tyrone.] To go back to the Purchase Clauses; did not you say in examination before Mr. Shaw Lefeve's Committee, that four-fifths of the mankage were warm which the last with enging it.

purchase-money might be lent with safety?

I do not recollect exactly what I said; but I think anybody entrusted with
the power of lending money to tenants, as under the Land Law of 1881, might
be trusted to lend as much as they thought would be well secured, without any

limitation whatever. I think in many cases it would be well to lend the whole, and that it would be very wrong to lend it if it were not well secured.

2181. The security of the tenant's interest, as well as the landlord's interest in it, would add to the seenity of the Commissioners, would it not?

It would.

2182. Chairman. It would be a margin in itself?

Yes. 2183. And in some parts of the country a very large margin?

2133. Ann ms ome parts of the country a very large margin ? In some parts of the country a very large margin. I think there are many cases where I have known tensants purchase their holding in which it would have been perfectly safe to lend them the whole money.

2184. Lord Tyrone.] And you think it should be left to the Chief Commissioners of the Land Commission to judge whether they should advance the

whole amount or not?

I do. I think it would make their duties much more difficult; but if they exercised the power with judgment the money would not be in the least

2185. Marquess of Salisbury.] Do you know whether at the present time the "no rent" movement has applied to any of those instalments?

I am not aware. I am almost certain that there has nothing of the kind occurred.

2186. The instalments are paid in spite of the "no rent" movement?
They have not been affected at all by the "no rent" movement.

2187. Chairman.] There were certain indulgencies allowed, were there

not?

In the bad time as much time was given as the Commissioners thought they

safely could give.

2:88. Lord Tyrone.] If the whole of the purchase-money were advanced, and the time spread over a greater number of years, do you think there would be a large increase in the number of tenants who would be prepared to numbers?

Yes

Yes, I think there would, and if it is desirable politically to adopt any principle of that kind, I thick it should be done on a liberal scale, and that the

operation would then be not so much one of purchase, but a conversion of the tenancies into ownerships. 2189. Chairman.] That is a more proper word by which to describe it?

I think so. There would be no objection to do it on a large and liberal scale, so long as care was taken that the annuity secured on the land was not too large to be sofe.

2190. Lord Tyrone. I think you said in your evidence before the same Committee that increasing the number of peasant proprietors would improve the state of the country?

I think one of the causes of the difficulty that has existed during the last year or two is that you have an enormous class of tenants interested in tenancy. and not ownership, as against the landlords; the classes are not fairly halanced.

21 Q1. Would it not be a great element if this idea were carried out in reducing the block before the Land Courts at present?

Certainly; I think if is yourable terms were offered to the tenants, that many would purchase instead of involving themselves in litigation about rent.

2192. You said, in your evidence hefore the Church Temporalities Committee, that the glebe lands which were sold were let high, as regards the average of the rest of Ireland ?

. The rents of the glebe lands generally were high-2193. Yet those globe lands sold at on average of 232 years' purchase, did they

They did; but it must be taken ioto account that, in making out that average, some of the estates were let very low, particularly some of the see lands, and they were sold in just the very best years that have occurred for a long time.

2194. Did you make the valuations for these soles?

A great number of them ; the greater part of them .

they would not think of doing so.

2195. I thick, jndging by the Report of the Church Commissioners, your valuation gave them great satisfaction?

I do not know whether they say so in their Report ; but I helieve it did. 2196. They also say, in this Report, that they are satisfied that the sales were

made at a fair rate of purchase-money ? I think that the sales were made at the best price that was obtainable. was the duty of the Church Commissioners not only to sell it at a fair price,

but to realise the market value of the property; and I endeovoured to set upon each estate or each holding what I thought it would fetch in the open market.

2197. I think you said, in reply to a noble Lord just now, that those tenants who have purchased have paid their instalments regularly?

They have, with very few exceptions, paid their iostalments. I might also mention that a great number of tenants bought, paying the whole purchasemoney down, and that, in any scheme for conversion of tenancy into ownership, or for lending a large proportion of money, it must be expected that there will be always some persons who will pay all the money down, or part of the money down, and also that many tenants will prepay the annuities for the purpose of reducing their instalments. Such prepayment is contemplated already by some of those who bave bought from the Land Commission. They hope and expect, after a few years, to pay something on account, and thereby reduce the instal-ments. Any operation of that kind, on o large scale, would not mean that you would have all these people with the same interest in land, and, therefore, likely to combine together to avoid payment. Some would be so deeply pledged that

2108. The (0:1). D D 2

21st March 1882.] [Continued.

2198. The tenants who purchased under these sales are, in making up their instalments and taxes, paying more than their old rent now under the Church Commissioners? In most cases I should think they were; but in some cases they are paying

less. You must remember that the Commissioners were paid one quarter of the purchase-money down. In some cases the tenants had it by them, in other cases they horrowed it; but their payments to the Land Commission are somewhat less than their own rent, because they are only paving interest on threequarters of the whole nurchase-money.

2199. Something less than their old reut?

2200. But not generally, if they are paying interest on the money? Not if they are paying interest on the money; but that is a thing of which we have no knowledge. Some of them had the money.

2201. Do you consider that those who had not the money are going on prosperously?

Many of these who borrowed the money are not going on prosperously. They have been involved in great difficulties by baving borrowed at high rates of interest. Many are involved in great difficulties owing to legal expenses attendant on all dealings with land. For instance, men horrowed the proportion of purchase-money they had to pay down. Within a year or two that was called in, and they had to pay off that mortgage and borrow the money elsewhere, and give another mortgage. That involved them in very great expense.

2202. What was your reeson for fixing such a high average of price as regards the Encumbered Estates Court as 23% years upon these holdings. Was it be

cause you considered it a fair selling value?

As regards the Church holdings, each estate was valued separately, and I set upon it what I thought it would fetch in the open market. Where the estates were not sold to the tenants, and out up for sale to the public, my valuation was generally justified by the fact that outsiders offered the some prices that I had put upon them, or very nearly so.

2203. If land was sold in the Eucumbered Estates Court at an average of that purchese-money, would you presume that it was let fairly for the

For land sold in the Landed Estates Court, the price realised was a little less, and the average obtained was taken over a series of years.

2204. Viscount Hutchinson. Did you find that the tenant gave more then the outside public?

I think so. I think the price was a little raised by the fact that the money was lent to the tenants at 4 per cent. They might then buy at a higher

price than if the land had been sold in the open market to an outside purchaser.

2205. They would not give much over the market value for the sake of becoming owner? Irish tenents in transactions of that kind during the past 10 years have been

ready to give a great deal more than the market price. Under the Bright Clauses all the tenants paid considership above the average price obtained for lots sold to the public.

2206. Marquess of Salisbury. What do you think is the motive influencing them; is it the sentiment of possessing land or a desire to secure themselves against a rise of rent? I think, during those years, one strong motive was to secure themselves against an increase of rent. There is also no doubt that many men prefer

being owners of their farms and homes instead of heing tenants.

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2207. Do

2207. Do you think they feel that strongly in Ireland?

Very strongly. I think it pervades all classes. I know that I prefer living in a house of my own to hiring a house.

2208. Lord Tyrons.] If the land that you sold at that rate of purchase were to come into the market now, have you any idea what it would fetch?

I can hardly give an opinion upon that subject, but it certainly would not now fetch the price that it fetched then. Times are changed immersely, in those years during which we sold most of the property, teants were able to borrow the money which they had to pay down, with very great este. There was a great deal of money to be got on cheap terms. They could not get

2209. Viscount Hutchinson.] You think tenants' facilities for borrowing are diminished rather than increased? There is not the same amount of money to be lent in the country.

2210. Apart from that, do you not think that under the Act of 1881, the tenant has a greater security to borrow money upon than be ever had before?

Yes, he has a better security; but on the other hand, money will not be so

readily lent upon land at present.

2211. That is owing to the state of the country, possibly?

It is owing to various causes combined, partly political, and partly owing to the depression that has prevailed over the whole kingdom. 2212. Do you think that the depression you alluded to previously in a second

2212. Do you think that the depression you alluded to previously in your evidence arose partly from American competition and partly from other causes?

I do. So far as I have been able to learn, in England the depression and adverse seasons have affected the English farmers very greatly.

2213. Lord Brahourne.] Then neither to landlord nor tenant is land so good a security as it has been in past years, you think?

I do not think it is.

2214. Lord Tyrone.] In answer to Question 740, you said that your experience in regard to land in Ireland was that nine-tenths of the tenauts pay their rents and make savings from year to year. Do you remember that answer?

rems unso make savings from year to year. Do you remember that answer? I do not remember the answer; but I think is a rule, rents have been un-commonly well paid in Ireland up to the present agitation, and very often well paid in the districts where the farms were smallest.

2215, Would not that he a proof that the land in Ireland was fairly let?

A great deal of the saving that is done by Irish farmers is done by their living in a most miserable and penurious way. My own idea is that most Irish farmers are exceedingly thrifty and excessively penurious. 2216. If a man is able to live and bay his rent and out by money, is not that

a proof that, more or less, he is thriving, in any profession?

I think it is. But you must recollect with regard to this answer of mine, that

I was speaking of a time when the circumstances of all agriculturists were very different to what they are may, and my experience did not extend to previous forms of bod years; but I have no doubt that many farmers do save a little, and that the agricultural classes generally Mare grown richer donig the lest 15 or 20 years than they were previously. Of course they have met with a very heavy declared the state of the s

2217. You stated, I think, to the Committee that you were head of the department which had to do with the Purchase Clauses of the Land Act of 1881?
Yes.

(0.1.) p p 3 2218. There

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2218. There is a pamplilet which has come before our notice about how to become owner of a farm; did that pampliet come before you as head of the department; I ask you, because it refers to that particular department ? No, it did not come before me,

2219. You never heard anything about it before it was circulated?

Yes, I heard about it; but I msy say I had nothing to do with it. I heard of it in the same way as I might hear of multitudes of things in the office; otherwise, I had nothing to do with it.

2220. Would it not be the duty of the official who wrote it to put it before you as the head of the department?

No, I do not think it would. The solicitor is a higher-paid officer than I am, and I suppose be would rank as my superior officer; at any rate, his pay is better, but he would not be in the least bound to consult me about any business of that kind.

2221. Viscount Hutchinson. You have seen the pamphlet, I suppose?

I have; and I may say I knew perfectly well who wrote it, but otherwise I had no responsibility for it.

2222. I suppose you have seen it in the two forms; the original form in which it was when it left the "Freeman's Journal," and the subsequent form it was in when it left the office?

I have seen its outside, but never read the pamphlet except in the shape of the original articles in which it appeared in the papers.

2723. Marquess of Salisbury. Supposing there were an extensive purchase of these large properties by aid of the loans of the Government, is it your belief that the Government would expose itself to the risk of greater unpopularity than it does now by pressing for the instalments; would the change from rent to instalments cause a large amount of unpopularity to the Government?

I do not think the unpopularity of the Government in Ireland could be very much increased. I think the whole question of the collection of instalments would depend upon whether the purchases were made on such terms as to make the instalments easily repayable.

2224. You mean easily to the tenant? Easily to the tenant. That is to say, if tenants buy at too high prices and

I think it is.

bave to pay too high prices, the instalments of course will be difficult of collection. 2225. Lord Kenry.] But suppose that the instalment was not higher than the rent, they would just as soon pay the instalment to the Government as the

rent to the landlord, would they not?

More readily, I think. I think the judicial rents in future, if low, will be

easily collected, but if high they will be difficult of collection.

2226. Lord Brabourns.] I should like to put to you the converse of the proposition that was put just now. Do you think that the unpopularity of the Government could be easily decreased by any further gifts to the tenants, or any further measures?

I think it could. I think a change of policy would probably alter the temper of the people in Ireland, and I think Ireland is capable of being made an attached and integral part of the United Kingdom.

2227. Lord Kenry. I should like to ask you your own opinion as to the fact of tenant-farmers baving been able to pay their rent and lay up money; is that caused at all by the very low standard of comfort they live in?

2228. They live very poorly, in your opinion, considering their circsmstances? They do.

2220. Earl

Mr. O'BRIEN.

2229. Earl of Pembroke and Montgomery.] You talk about land in Ireland having become unsaleable; is not unterented land, or land not let, just as

saleable now as ever?

I do not think it is ouite so saleable, but still it is saleable.

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2230. It would be more difficult to dispose of, you think, would it not, at a air price?
I think there would be some difficulty, but of course it would be much more

I think there would be some difficulty, but of course it would be much more saleable than land with temants upon it. 2231. Marquess of Salisbury.] The price of the land, I suppose, has fallen

like the price of rent?

It has fallen because there are not so many people ready to invest in land in Ireland.

Ireland.

2232. Viscount Hutchinson.] With regard to the Purchase Clauses, I under-

stand that the applications come into you, but the ultimate decision as to the merits, and what sum of money should be advanced, and this, that, and the other, rests not with yourself but with the Commissioners? It does.

233. You have told us at present that there are not many applications, but it is hoped they will increase. Do you think the Land Commission, as at present constituted, with this enormous number of cases coming into Court every day, and increasing every day, is physically able to undertake both the regulation of matters under the Purchase Clauses and the regulation of matters

regulation of matters under the Purchase Clauses and the regulation of matters under the Fair Rent Clauses? I think it would be very desirable if an extension of the Purchase Clauses is contemplated, or if a large amount of business of that kind came in to the Land Commission that there should be another body to deal with it. Of course I see great difficulties in creating other hoards, but I think the time of the

I see great dimensions in creating order norms, but I bonk and time to the Commissioners will be taken up very largely with the hearing of rent appeals and other business.

2234. How long do you think they will be in disposing of the first cycle of rent appeals? I have not made any estimate of the time they take, nor have I any figures

which would enable me to do so.

2235. At any rate, for the present there is no likelihood of their work being very light in that department? No. I should think they would be very fully occupied. When an application

No., a sount mass way would see for mail to impress that do be correct and comes in, the payaged or may assistants, and we make a recommendation, it is brought to the Commissioners to approve ordisprove of it, or to direct further steps, and nothing can be done till they make an order to advance the money.

2256. And it is done by them all sitting together, I suppose?

No, it is brought to whichever Commissioner happens to he in the office.

2237. And does he consult his colleagues?

If it were a case where it was necessary to consult them he would.

2238. But in an ordinary case, where there was no question about it, he would grant it on his own responsibility? He would.

rie would.

2239. Do you look upon the safeguards under the Act against sub-division, in the case of persons who purchase their holdings, as adequate?

No. 1 de not think they are adequate; and if I might say a word as to the future dealing with tone small proprietors, if they should be created, it hink it most desirable that the system of record of title should be applied to those small properties, and that the record of their title abould be legit in the Land Countries of the said of the second of their title about the legit in the Land Countries of the said of the said the second of title system would, I think, (0-1.1), or because it First, the record of title system would, I think, (0-1.1), or the case of the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the said of the system would, I think, (0-1.1), or the system would, I t

make the properties more valuable. They would be more easily transferable, and therefore he hetter security for an advance. If the tenant wanted to sell, he would be exempt from the costs now attendant upon the transfer of small properties which are very heavy; and secondly, the Land Commissioners would be in a position to know what was done with the property in the case of the death of the owner,

2240. Chairman, Do you mean in place of the record of title being in the Record Office, that it should be in the Office of the Land Commissioners No property can be placed on the record of title, unless it is sold in the

Landed Estates Court. Therefore most of the properties cannot be placed upon the record of title, but I think there should he a record of the title kept in the Land Commission Office, and that all transfers should be effected there so long as they are subject to any charge to the State. It would vastly improve the security.

2241. You would have to do more than that; you would have to prevent it getting into the other office, would you not? Certainly: I should make it compulsory, and also prohibit the creation of

limited estates. I suppose that they should be allowed to charge their properties to any extent they like, but not to create limited estates in them. I think that is essential to the prosperity of these small owners in future. Every time that there is any dealing in any way with these small properties, the expense the tenants are put to is very heavy, and it would also he a protection against sub-division. It seems to me the present provisions against subdivision are not sufficient. The provisions are that the holding shall not be sub-divided or let without the consent of the Land Commission. The Land Commission might have no means of knowing that. If "on the decease of the proprietor, the holding would by reason of any devise, bequest, intestacy, or otherwise, become sub-divided, the Land Commission may require the holding to be sold within 12 months after the death of the proprietor." But they may not know of it until long after 12 months. Therefore I think those provisions are quite insufficient.

2242. Viscount Hutchinson.] Do you think that provision of record title would he an adequate safeguard? I think it would be a safeguard, because the sub-division in case of death and jutestacy or hequest would necessarily become known to them.

2243. Chairman.] I do not quite understand what you propose. Is it that there should be opened in the Land Commissioners' Court, a separate record of the title of the estates sold in this way ?

2244. Which might, if the thing succeeded, cover a very large part of the land of Ireland ?

Yes, I think that the title of every holding should he recorded there, and every transfer made in the Commissioners' hooks.

2245. After a certain length of time that might bring the record of title of the greater part of Ireland into the Land Commissioners' Court?

I think arrangements should be made by keeping the books in counties or unions for its future transfer to localities, so that there should be a local registry in future, and that every holding should be shown upon the Ordnance map. As it is now, every holding that is sold is marked on a set of mans of Ireland. which we have in the office, and can be identified at any moment,

2246. Would not your purpose be answered if, when any purchase is made, it was required that it should be entered in the Record of Title Office, and provisions made to enable it to be entered there, and then that any dealings should take place with regard to it without notice to the Land Commissioners, so that they might interfere, intervene, and object if necessary?

I think it would be most desirable to probablt the creation of limited estates, The present Record of Title Act would not be sufficient, and as a commencement, 21st March 1882,7 Mr. O'RPIEN

as long as there is a charge due to the Land Commission I would keep tha record in their books; but the system of recording it in the Record of Title Office would be very desirable if the other suggestion was not adopted.

2247. Marquess of Salisbury.] Would you forbid the creation of joint estates?

I do not know that I quite understand what joint estates are.

2248. Estates owned by two people?

That is a point I have not considered.

2240. Chairman. What extent of dealing would you allow? Suppose a man dies and has three sons and a widow; he wants to provide for his widow; would you allow him to divide the property between the three aons:

So long as it is subject to a charge, I think the provision that it should not be divided without the consent of the Land Commission should subsist. Otherwise I think he should be allowed to charge it with capital sums to any extent he chooses. If he overcharged it it would end in its heing sold,

2250. Viscount Hutchinson.] Do you mean during the time it was subject to the Land Commission charge? It would not affect the Land Commission security, because their charge would

have priority over all others. 2251. Chairman. I want to ask you a question about the subject of arrears:

bas that come under your attention at all, as regards the extent to which the pruvisions in the Act as to arrears are being availed of? No, I have had nothing to do with the question of arrears.

2252. You do not know anything about that subject,

No.

2253. Viscount Hutchisson.] Have you ever considered the advisability, in the case of any large number of sales bring effected under the Land Act, of an intermediary between the State and the purchaser to advance money, and whether any scheme would be practicable, like what takes place in Prossia?

I have thought about the question, but I do not see bow any arrangement such as you speak of could be made.

2254. Wbv not?

I do not know exactly what took place in Prussia.

2255. There was a system by which the banks advanced money to tenants? The banks now can advance money to tenants if they like to do so; but there is a certain amount of difficulty in making an advance upon landed security,

hecause it is not easily realisable. 2256. In the event of monsy being found by the State to enable tenants to pay so much of the purchase-monsy on their holdings, there would be a certain State guarantee, would there not, which would strengthen the security very

materially? A State guarantee of the title?

2257. Supposing these banks to advance the money on debentures under State guarantee, the security would be good enough then, would it not?

I think it would be much more desirable to do that directly instead of indirectly, and allow the Land Commission, or any body carrying out this operamurrecuty, and anow me Land Commission, or any body carrying out this opera-tion, to borrow amore in Irchard on debestures, and use it for the purpose of extending their operations. I think that would be a most desirable thing. In fact, they would set like a building society; they would receive mosely on deposit. I should propose that instead of a simple deposit receipt help should give a board which would be transferable from bated be had, seen to small amounts, with coupons attached, cashable at all the post offices. That would induce people in Ireland to invest in that security which would give them an interest in the whole arrangement.

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2258. Supposing

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each estate.

21st March 1882.] Mr. O'BRIEN. [Continued.

2258. In a time like this they would fluctuate, and be rather low, probably?

They would fluctuate, but that would not affect the Land Commission. They might be saleable at a premium at one time.

might be saleable at a premium at one time.

2259. It might affect the seller very much, might it not?

2250. It might affect the seller very much, might it not? It might; but if they were guaranteed by Government; in fact, if issued by the Land Commission, they would be practically guaranteed by the State, and they would not be likely to fluctuate more than Concells. They would not be about one outlined to secured upon the land; you could not have them secured upon each parcel or

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Friday uext, at Twelve o'clock.

Die Veneris, 24° Martii, 1882.

LORDS PRESENT:

Dake of Nopport Earl CATRNS. Viscount BUTCHINSON. Dake of SOMERSET. Marquess of SALISBURY. Lord Tyrone. Marquess of ABERCORN. Lord CARTSFORT. Earl of PEHINDER and MONT-Lord KENRY. GOMERY. Lord BRABOURNE. Earl STARHOPE.

THE EARL CAIRNS, IN THE CHAIR.

Mr. GEORGE FOTTRELL, Jun., is called in ; and Examined, as follows:

2260. Chairman. I You are, I believe, a solicitor in large practice, conveyancing and otherwise, in Dublin? I am. 2261. In the course of your practice you have had large dealings, we under-

stand, in lending money on estates ? I had considerable business in that way,

2262. And you were appointed Solicitor to the Land Commission? I was.

2263. Was that for a term, or generally? The wording of the Act is, I believe, for the term of the Commission; but

Yes.

(0.1.)

the Minute appointing me does not state exactly whether my appointment was for life, or whether it was a temporary appointment. 2264. What were the duties of your office as Solicitor to the Commission? In the first instance, I assisted in drawing all the rules that were drawn by

the Commission, and in drafting the forms, especially the forms connected with the Arrears Clause and with the Purchase Clauses. 2265. Were those the two departments that were specially under your care?

They were. The first matter given to me was the carrying out of the Parchase Clauses, and then when the Purchase Clauses were found not to work very rapidly, and, as the other departments were extremely busy, the Commissioners asked me to take charge of the arrears section.

2266. Who was the head of the department connected with the arrears? There was no special department created for it; it was put under my charge. 2267. We understood that Mr. O'Brien was the head of the department con-

nected with the Purchase Clauses? Yes, he had charge of all the valuations and the proceedings up to the date when they would be given to me with a view of their being carried out.

2268. You had charge of the legal proceedings connected with them, had E E 2

226q. As

24th March 1882.] Mr. Fottbell, Juo. [Continued.

2260. As those were your departments, we will, if you please, take the question of arrears first in order to get rid of it before we proceed to the question of purchase. Will you give the Committee an account of the procedure which was adopted by the Commission with regard to advoces on the score of arrears?

The first thing required was the filling up of the form No. 49, which is mentioned in the roles.

2270. Was that a form to be filled op by the landlord?
Filled up by the landlord and signed both by the landlord or his agent and by

the tensor. I Deliver all the forms have been already handed in by Mr. Godley. The schedule that from set out the townhal, the names of all the treens, the area, poor law valuations, amount of arrears due, amount of the selvence applied area, poor law valuations, amount of a reason and the selvence applied area from the previous of the selvence applied to the selvence of the selvence of the selvence is a previous of the selvence of the selvence of the selvence is a fixed to the selvence in a previous included in the selvence is a fixed to the selvence of the selvence.

2271. Viscount Hutchinson.] Is there any particular form of notification? There is.

2272. Chairman.] How many applications were made altogether for advances on this head? I left the Land Commission on the 14th of February. That is the date of my

resignation, I think, and up to that date the applications were ridiculously few, but at the end of the month, on the 28th of February, a much larger number came io.

2275. What was the date when the time expired? The 28th of February.

2274. You speak now up to the 14th of February?
Yes; but I have made enquiry since and bave ascertained that the total number of applications that came in up to the 28th of February, that is covering the entire period, was 534.

2275. Do you know for what amounts those opplications were made?

I do. The number of tenants whose holdings where comprised in those appli-

1 to 1 the number of trusted whose notemps where comprised in those applications was 6,335.

2276. It was not 534 tenancies r

No, that was the number of applications; several teogocies may be set out in

each application. The amount of arcears set forth as due was about 84,000 l.

2277. That is the whole amount of arrears due?

That is the whole amount of arrears due, and the whole amount applied for

was 32,000 L

2278. Do you know how much has been granted upon those applications? I do not think they have been got through yet. It is a very troublesome proceeding, and I think the probability is that the Commissioners have not issued

proceeding, and I think the probability is that the Commissioners have not issue any money, or very little money, at all events, on the bulk of them.

2279. They are under consideration still?
Yes. These applications show that the average root of the tenants in respect of whom an advance was sought was probably about 6 L.

of whom an advance was sought was probably about 6 l.

2280. Are there any meterials which would show what is the probable sum

2230. Are inere any materials which would show what is the probable sum due altogether for arrears of rent in Ireland at present? I made inquiries about that before I came over here. There is no such thing of course as public statistics that can be got upon the point, but from the inquiries I have made I believe the arrears due upon holdings valued under 30 4. up

to May 1881 would not probably amount to more than seven or eight millions. 2281. And

24th March 1883.] Mr. FOTTRELL, Jun.

2281. And the total amount of arrears here covered is \$4,000 L?

2282. Supposing those figures to be accurate, to what do you attribute the circumstance that such a comparatively small amount of arrears became the subject of those applications?

There were difficulties both in the way of the tenant and in the way of the landlord. The tenant, I think, considered that he had a hard task enough to pay his reot, and that the addition of eight nad-a-half per cent, would be a burden beyond his strength, and therefore he did not wish to apply. The landlord, I think, on the other hand, thought that although the money might be obtained and the tenant induced to sign the schedule, still the tenant would very probably not pay the instalments, and that ultimately the repayment of the instalments would fall upon the laudlord himself. That is the opinion given to me by several land agents and persons of experience with whom I have spoken upon the subject,

2289. Viscount Hutchingon. How many million do you say the arrests of rent amount to?

I should think probably about seven millions. I mean arrears due on holdings valued under 30 l.

2284. A large proportion of the tenants in arrear would not be paid by this particular clause, which only applies to tenancies under a certain value?

I think probably there are 7,000,000 L of arrears due on those tenancies. I will tell your Lordship how I made that out; I took the Return which was made in 1881 to the House of Commons [c. 2934].

2285. Chairman.] What is that Return about? It is n Return showing the number of agricultural holdings in each county in Ireland, and the values of them. That Return is, I helieve, loaccurate in some respects; that is, the total number of holdings set out there is considerably in excess of the real number. This is a Return made by the clerks of the poor law unions; it shows that the total holdings of all valuations was 660,000. believe the real numbers, from inquiries I made at the Registrar General's and the General Valuation Office, to be somewhere about 520,000; I took the average given here, and the number of holdings under each valuation given here, and multiplied them by the average valuation; for example, the first figure given is the number of holdings of 4 L and under, I multiply that hy 21.; the next is over 41 and at or under 10 L; I multiply that by 7 L, which was the average, and so on. By that means I made out that the total valuation of those holdings, according to these figures, would be 4,785,000 L. But I am told that, in consequence of the mistakes which I have spoken of in this Return, this is an exaggerated estimate, and that probably 4,250,000 L is the real valuation. I have made inquiries from several land agents, and their report as a rule is, that not more than n year or a year and a half of reut is due up to May 1881.

2286. That is nearly a year ago, is it not?

Yes, it is nearly a year ago.

(0.1.)

2287. When you say due up to May 1881, do you mean actually due, or do you take into account the hanging gale? No, I think it is due altogether; that would include the hanging gale, I

presume. 2288. If the hanging gale is taken into account, the May rent would not be

considered due until November, would it? I understood them to mean that it was the rent which had actually accrued due.

228g. And that they could have asked the payment of? Yes; of course there are some estates where the arrears are very considerable, amounting to as much as four or five years in the case of a few; but I believe the amount of the general number to he what I say, at least judging from the inquiries I have made, for I have personally no means of ascertaining it. E E S 2240, Have

[Continued,

2290. Have you any suggestions to make as to any way in which these clauses as to arrears might be made more workable with justice to both parties than they are at present?

I believe the question of arrears in Ireland cannot be settled, except upon the basis of the Government giving a free grant to landlords for a portion of the

arrears ? 2291. A free grant?

to the advantage to be gained

Yes; and the suggestion I would ask permission to make would be this: that as regards the boldings under the 30 L valuation, a free grant should be made of one-half of the arrears due up to May, 1881, provided that one-half did not exceed one year's valuation of the bolding. That would prevent the rackrenting landlord getting more than the landlord who had been kind to bis tenants.

2202. Providing it did not exceed how much? A year's valuation, not a year's rent?

2203. Do you mean that if it exceeded a year's valuation, the landlord should

have nothing at all? Oh no. I mean that in no case should more than a year's valuation be given.

2294. It should be limited as a maximum to these two years, you think? Yes; I think that would probably cost from two to three millions.

2295. Marquess of Abercovn. What you mean is to meet the cases where the rent might be double the valuation?

2296. Chairman.] And what expenditure by the State would that proposal involve?

I do not think it will cost more than from two to three millions of money. The reason why I say I do not think the arrears question can be settled, except upon that hasis, is this, that I helieve it will be impossible to devise any scheme by which the State will be able to recover those arrears from the tenants by charging them on the holdings without a cost and labour quite disproportionate

2207. Is your proposal this, that on payment by the State of the sum you

mention, there should be a sweeping away of all the arrears?

Yes, a compulsory sweeping away of all the arrears. Will your Lordship allow me to say this: the eight and-a half per cent. charge, taking an average of the rents, in reference to which advances were sought, to be 6 l., would amount to 5 s. 1d. each half year, so that your Lordship will see the enormous mass of trouble that would be caused, in the first place, by the mere clerical work of carrying out the scheme, which involves charging each tenant's holding with the instalments in repayment of the amount advanced; and, secondly, the difficulty there would be likely to be in the recovery of it.

2298. Viscount Hutchinson.] I understand you to say that in no case should more than one year's valuation of the land in question be given? Yes.

2299. Would not that fall very unequally, because there are a great many cases in Ireland where a valuation is no test at all; grazing land, for instance, may he rated at more than double the value?

I do not at all mean to say that the suggestion is theoretically perfect, but I think that, in a rough and ready way, it is the nearest approach you can make to justice.

2300. Chairman.] I suppose you would justify it by saying (as the proposal implies) that masmuch as a considerable part of the debt is to be cancelled, you would only be cancelling it in a rougher way? I believe it will have to be cancelled, no matter what occurs. I think if the Government does not cancel it the tenants will.

2301. But

periods

24th March 1882. Mr. FOTTBELL, Jun.

2301. But upon what principle would you justify your suggestion that the Exchequer of the United Kingdom should make this payment

I justify it on the ground that this is really a payment not to the tenants at all, but to the landlords; because under any other law that I am aware of, except the English law, the tenants would not really have had to pay these arrears at all; they would not be debitable with them. In France, for example, under the Code Napoleon, a tenant, under the circumstances in which these losses have taken place, would not have been bound to pay the rent during those vears.

2302. I am afraid you raise a very debateable question there, do you not? It is Article 1770 of the Code that deals with the question. It says, "If the lease be only for one year, and the loss be of the whole of the fruits, or at least a moiety, the lessee shall be discharged from a proportional part of the price of the hiring."

2303. That is to say, that that is part of the terms of hiring under the Code Napoleon?

That is not part of the terms of the hiring in Ireland, is it?

I think recent legislation has proceeded upon the basis that freedom of contract did not exist between Irish landlords and touants. The same law as exists in France applies to Scotland; that very point was decided in the case of Lord Relicton's Curstors against the Tenants, which is reported in Morrison's Deci-

sions of the Court of Session, page 10128. 2305. Have you looked into the Scotch law upon the point?

Yes, as your Lordship gave me a couple of days to spare here in London, I thought I might as well employ it in that way.

2306. In your researches did you not find the Scotch law to he that the only terms on which it gives relief to a tenant is that he must deliver the property back to the landlord?

I think not. That is not the law as laid down in the case of Lord Eglinton. 2307. We will not go further into it, but I think if you look a little further

you will find those are the only terms on which relief is given? Mr. Sheriff Barclay, in Scotland, who is looked upon there as a great authority, has given an opinion within the last few months that the law laid

down in Lord Eglinton's cases is still good. 2308. Earl of Pembroke and Montgomery.] Is it not the case that a great many of those tenants have incurred those arrears, not by reason of had seasons, but by refusing under the bidding of the Land League to pay the rent, and spending the money in other ways?

I do not think the number is very large. If you look at the losses that took place in the years 1877, 1878, and 1879, you will see that the amount which was lost on the particular crops, which are the mainstay of the farmers farming boldings under 30 L valuation, would nearly account for the extent of those arrears. The loss upon potatoes in the years 1877, 1878, and 1879, amounted to nearly 15,000,000 l. sterling, and the loss, I see, on pigs was nearly three and a half millions; that would be more than 18,000,000 l. The bulk of that loss, I think, will have fellen upon small holders, because those are the two principal items of their cultivation.

2300, 1880 was a very good year, was it not ?

I believe in some respects it was, and in some respects not. 2310. Lord Brabourne.] Is it not the case that, during the last few years, there has been an enormous increase in the deposits in the banks?

I do not know how that is. 2311. If that were the case, should you not think that that was some evidence of agricultural presperity in Ireland? Not necessarily. I believe the same thing exactly occurred during former E E 4

Mr. FOTTRELL, Jun.

24th March 1882,7 Continued. periods of great depression in Ireland. In 1847 and 1848, I believe the deposits

increased in the same way, but I do not really speak from my own personal knowledge. I think that similar results have been known to occur in France during periods of agricultural depression.

2312. You think the greater the depression the larger the increase of deposits? I do not think if the depression is great that the deposits would necessarily

decrease at all, because I think a curtailment of all business such as would occur in a time of depression might cause the bank deposits even to increase.

2313. Still, if in the last 10 or 15 years the deposits have considerably more than doubled, would not that afford some evidence of something like general

prosperity on the part of agriculturists? I suppose it would represent prosperity somewhere; at the same time I do not

see how, if they lose 18,000,000 l, in three years, the farmers can be prosperous, and I know that the opinion of most men that I have spoken to (land agents and others), is that there is a very large proportion of people who cannot pay. I had a letter from an agent in county Galway this morning, in which, in these very words almost, he said, "There are a large number of those tenants who could not by any possibility pay the arrears," and my belief is that those tenants who cannot pay their arrears are the persons who intimidate those who have money from paying, and commit the outrages, with a view to that intimidation, so that they may increase the number of persons who would have to be proceeded against in the event of a general attempt to recover rents, thinking that in that way they may protect themselves.

2314. Earl of Pembroke and Montgomery. You seem to be doubtful whether there is any large proportion of tenants who have got into arrears by not paying their rent in the way suggested; but are you aware of the fact that those tenants who have been purchasing their properties, and who during those had year's have been paying instalments, instead of rent, have in most cases succeeded in paying the instalments, and that a very small proportion have failed? The instalments have been paid with great regularity, I believe.

2315. Surely that looks rather as if the rent might have been paid if they had

wished to pay it? I do not know that it would necessarily mean that, but rather that those who purchased were a more comfortable class of men.

2316. Chairman.] Your suggestion upplies to tenants under what value? Under 30 l. Over 30 l., I think it would not be fuir to ask the State to advance money as a free agent. A further suggestion I would make with regard to that is, that as an inducement to tenants to purchase, where they may agree with their landlords to purchase their holdings, one enlf the arrests should be

advanced on the same terms as the purchase money. 2317. You are speaking now of holdings over 30 L?

2318. We will go to the question of purchase afterwards; what is your opinion as to the effect upon the country of the acttlement of the question as to

arrears upon a basis such as you have mentioned? I thick it would withdraw that portion of the population, who, I say, at present, are exercising intimidation, from that course; because, I helieve, that their

intimidation is carried on with a view to self protection.

2319. Viscount Hutchinson.] Do you believe it would withdraw the class who are intimidating people? It would withdraw them from that course.

2320. You do not mean that it would not give them a field to act upon; your

view is that the iotimidation is going on, hecause of the existence of the arrears? Exactly so.

24th March 1882.]	Mr. Fortnell, Jun.	[Continued.

2321. You think that the ultimate object is merely to get rid of this sort of sword of Damoeles that is hanging over the people's heads? In order to be able to hold their farms; and they believe that the Land Bill

affords them no practical protection against eviction on account of these arrears. 2322. Chairman.] Has there been any scheme proposed as to the manner of

dealing with this question of arrears other than that in the Act of Parliament? I sow a scheme put forward by Mr. Russell in the memorial which he presented, but I think it is open to the difficulties I have already mentioned ; in fact,

it is open to greater difficulties. 2323. You can tell the Committee what the proposal is: I will not trouble von to read it at length?

His proposal is to give the Court which would be settling the fair rent, power to deal likewise with the arrears; that advances then should be made to the

teoants whose arrears of rent were so settled, on the same terms as the advances under the purchase clauses of the Act. The difficulty I see about that is that it would be the Greek Kalends before it would be done.

2324. That, of course, could only be done as a judicial reot was fixed? Yes, and it would likewise involve the difficulty of collecting these infinitesimally small sums.

2325. Now we will en. if you please, to the question of the purchase clauses; how many applications altogether were sanctioned before you left the Com-

mission? Shortly before I left the Commission I prepared a report on the working of the purchase clauses of the Act, which I would be glad, if your Lordship would

allow me, to out in as a portion of my evidence bere. 2326. Was it printed?

No. it has never been printed or published at all yet. It was only presented to the Commissioners, and was waiting in the office until such time as it might be called for by Parliament. It deals with a good many questions in connection with the purchase clauses, and more exhaustively than perhaps you would care for me to attempt here. (The document is handed in.)

2327. Will you state to the Committee the number of applications that have been made by tenants to enable them to purchase their holdings? Up to the 31st December the total number of applications was 13; they affected

the boldings of 46 tenants, and the amount of the advances sanctioned was 2328. Were those cases where the landlord and tenant had agreed between

themselves to buy and sell? They were. Seven of the applications were made under Section 24; five uoder Section 35, and one was under Section 26.

2329. What is Section 24?

Section 24 deals with sales from landlord and tenant outside the Court; Section 35 gives to the Land Commission the powers previously vested in the Board of Works under the Act of 1870, and Section 26 enables the Commission to purchase an extate and to resell it among the tenants.

2330. What is the amount which the Land Commission are enabled to advance to the tenant? They are enabled to advance three-fourths of the principal sum where the par-

chase is an out-and-out one, and one-half the fine in case of a tenant purchasing for a fine a fee-farm rent, but no application for a purchase of the latter kind has yet been made.

2331. Nothing of that kind has been done? No.

(0.1.)

2532. And under the Act of 1870 we understand the advance authorised was two-thirds of the value? That was uoder the Act of 1872, I think. 2333, The

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24th March 1882.7 Mr. FOTTRELL, Jun.

[Continued.

2333. The amending Act you mean ?

Yes.

3334. It is possible, you suppose, that two-thirds of the value might be more than three-fourths of the price? Undoubtedly.

2335. Have the applications in number amounted to what you and what the

Commission expected they would amount to?

The applications have been extremely few. I did not myself anticipate that

they would be very numerous, but I thought they would be more numerous certainly than they have proved to be up to the present, but I think I can see reasons why they were so few.

2336. Will you tell the Committee what were the reasons which in your mind have prevented the applications being more numerous, and first take any reasons that might deter landlords from selling?

I ballere a very large portion of freehal is held in settlement, and under the Act himide downess have priefle poor to sell, but takes live he is power of site reserved in the settlement or will under which the himsel owers holds, the Camcellance of the control of the under the Lends Chauses Genoildation Act. The effect of that would have been purches, and that serifies we are return in this hadder could affired to

make.

2337. In a case of that kind, who would pay the expenses of the proceedings in

the Court of Chancery?

On the principle laid down in the Lands Clauses Consolidation Act, I take it, the expense would fall upon the tenant.

the expenses would full upon the tenant.

2338. It was pointed out to the Committee, on a former occasion, that the words of the Act were, that the tenant should be taken to be the promoter of the

words of the Act were, that the tenant should be taken to be the promoter of the undertaking?

He would have to be taken to be the promoter of the undertaking. I do not

see who else can be taken to be the promoter; so that the tenant, in addition to paying his instalments, would have that indefinite liability to costs langing over his head for years.

2330. There never has been, I suppose, a case of that kind yet?

No.

2340. Has there been a case of a limited owner? No, none.

2341. Marquess of Salisbury.] I suppose a very large proportion of the land in Ireland is hold under settlement?

I believe it is and understanded I lish settlements do not contain as a rule. a

I believe it is, and unfortunately Irish settlements do not contaiu, as a rule, a power of sale, though English settlements do.

23.42. They are more restrictive?

They are not drawn in the same way, and that clause is left out; I think there is a greater tendeucy to draw them with powers of sale in them now.

2343. Chairman.] If there were a power of sale in all probability it would not

2343. See that for life, but in the trustees?

Then the money could be handed over to the trustees to be dealt with accord-

ing to the trusts of the settlement.

2344. Have you any suggestion to make to meet the case?

I have. I deal with the matter in the Report which I have before me, and the suggestion I make is this, that the entire proceeds of the sale should be paid over to some body like the Commissioners for the Reduction of the National Debt, and that the value of the tenancy for life could be capitalised, and, that the tenant for life so wished, he paid over to him; that the bulance of the purchase money

94th March 1882. Mr. FOTTERLL, Jun.

should be left in the lands of the Commissioners for the Reduction of the National Debt. to become insurers for the remainder man, so that at the death of the tenant for life the remainder man should get, not the portion that remained over after paying the tenant for life the capitalised value of his life tenancy. but the entire sum which he would have got under the ordinary course of the settlement. That could be done without loss,

2345. Do you mean that by accumulating and investing on a large scale, in a great number of cases, you would produce the capital sum when the interest of the remainder-man fell in?

Yes, there is nothing more uncertain than a single life, and there is nothing more certain than the average of a large number of lives; taking the money, capitalising it at 3 per cent., and investing the balance, would on an average undoubtedly produce the sum necessary to pay the remainder-man the entire fund on the death of the tenant for life.

2346. If you were certain that there would be a great number of cases. probably an actuary would tell you that that would be so; but suppose that for three or four or five years cases came in very slowly?

I am afraid that if the State is not prepared to take some risk we shall get on very slowly.

2347. What would the advantage of that proceeding be to the tenant for life ? The advantage would be that, instead of being tied to a mere 3 per cent.

investment, he would be able to utilise his money in any way be pleased. 2348. But if he was a prodest man, and did not want to spend the capital

of his money, but wanted to invest it, be would be in the same difficulty, would he not? I know men can invest their money out at Colorado, and get their 10 or 20

per cent, with safety.

349. Marquess of Salisbury.] With safety? With comparative safety; but without going so far, there are various departments of trade in which a man can invest his money; my plan would certainly

give an energetic man a wider field than he would have if tied down to a more 3 per cent, investment; an Irish landlord could not live upon a 3 per cent. investment as a rule, 2350. You think it would be looked upon as a boon to have a larger number

of investments open to him? It would.

2351. The remainder-man you would put aside, and invest his share in a safe investment, as I understand?

If the remainder-man were spi juris, I would give him the option of electing to take the capital value of his interest also.

2242. Chairman I You would give bim the discounted value or the interest in remainder, would you? Yes; but if he were not capable of doing that, if he was under any dis-

ability, I would leave the fund in the hands of the Commissioners for the Reduction of the National Debt, to accumulate. 2353. Do you think that measures might be taken to simplify the securing of

the whole purchase money, and paying the interest to the tenant for life, not necessarily investing it in consola? Of coarse it would be some advantage to increase the powers of investment. but I believe that that will not tempt the tenants for life to sell as rapidly as the

prospect of being able to touch the capital value. 2354. Marquess of Salisbury. But the protection of the remainder-men is not the only object of settlements; the protection of the wife is very often the main object, is it not? FF2

(0.1.)

MINUTES OF EVIDENCE TAKEN BEFORE THE

29th March 1882.] Mr. FOTRELL, Jun. [Continued.

Of course such a scheme as I mention could not be carried out without notice being served upon every person who would have any right under the settlement.

settlement.

2355. Chairman.] A notice which would enable them to prevent its being done, do you mean?

If there were any person who would be damnified by it I do not think the

scheme ought to be curried out, but I think you would find that the objection would come very rarely in practice.

2356. If there he a power in a settlement to sell, it is a power which is exer-

ciscable without notice to the persons in remainder; they could not prevent its being exercised, could they?

No.

2357. Marquess of Salisbury.) If there were a power of re-investment in hazardous securities; that would be the subject of notice. I suppose? Yes.

2358. I suppose you would say there is a long interval between the 3 per cents, and a Colorado investment?

There are a good many investments between, I think.

2359. Chairman.] When I spoke of 3 per cent investments, I meant such as a traitee is allowed to invest in. They go up, as we know, to 4 per cent in ordinary times?

Every movement in the direction of freeing the purchase-money will tend to bring sellers into the market; but Irish landfords, as a general rule, I believe, cannot sell under the existing system.

agio. You said just naw that a handlerd would not like to be a loser, taking the existe at 20 years purchase. He would look at the restal of the existe at one side, and what the investment would produce on the other, but in looking at the rental 1 suppose he would not look at the rental only; he would also look at the difficulty of not getting his rent, would he not?

2361. So that it would not be the case of a landlord who had then a certain rent on the one side, and a certain income from investments on the other?

He may look upon the rental as problematic, but we are of a hopeful disposition in Ireland; whereas that Government stock yields only 3 per cent. is a fact which the most sanguine man cannot ignore, and therefore the loss by the sale and investment will be apparent to him.

2362. There are other things to be considered with regard to the rental besides the difficulty of getting the rent; there are the agent's fees and the taxation?

There are of course, but there is a very large proportion of Ireland that is extremely heavily encumbered, and a landlord would know that if he cut off anything like two-fifths of his income it would mean absolute ruin to him.

2363. I want to know how you make out that the landlord selling at 20 years' purchase and having the purchase-money invested, would lose as much as two-fifths of his income?

Probably not quite so much, but I think that is the way in which it would

strike him.

2364. Marquess of Salisbury.] What are the average outgoings on the Irish

rental; on the English rental I believe that it is 15 or 16 per cent.!

I do not think we consider it anything like that in Ireland, but really I have no personal knowledge about it.

2365. Chairman.] How does the question of middle-men affect the purchase clauses?

That is likewise a great bar to sales.

Under the sections of the Act the State helps occupiers purchasing direct from the landlords. I believe it has been

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estimated that from a fifth to a third of all Ireland is held by middle-men; that is, that there are persons between who have intermediate interests.

2266. You mean between the occupier and the owner :

Between the occupier and the owner of the fee-simple; and the middle-man

cannot purchase from the head landlord, or at least he cannot get any assistance from the State in doing so. 2367. You mean he is not within the Act?
No. The tenant very frequently cannot be assisted in purchasing from the

middle-man, because the rent to which the middle-man is liable covers an area embracing several holdings, and there is no holding large enough to bear the entire rent. 2368. You mean that it cannot be apportioned?

We have no power of apportionment at all.

2360. So that the head rent comes upon every holding that may he nurchased?

It is an absolute bur to sale. There is no power of apportionment given to the Land Commission by the Act of 1881. There is such a power vested in the Landed Estates Court, but it has proved to work very hadly; the Landed Estates Court is directed in making any apportionment to take care of the interests of the head landlord, and in practice it was found that in most cases it would be an injustice to the landlord to split up his head rent; and I believe that since the Landed Estates Court was founded there have been only about a dozen cases in which the power of apportionment has been exercised.

2370. What is the reason of that?

Because they thought they might be doing an injustice to the head landlord. 2371. But the Landed Estates Court have a power of apportionment?

They have a power of apportionment. A landlord entitled to 100 L a-year has a very different property if he has that receivable in one sum from what he would have if it were payable in ten instalments.

2372. Marquess of Salisbury. What is the present purchase price of headrents?

It is not easy to lay that down exactly; but I can give an instance; there is a building property I own myself near Duhlin, and the head-rent of that was put up for sale about a year ago, and the highest bid that could he got for it was about 21 years' purchase, although it is very well secured.

2373. Chairman.] As we are on the question of head-rents, I should like to ask you also about quit-rents. What hes been the practice, so far as there is a practice, of the Land Commission in purchases, where the land is subject to a

We endeavoured, so far as we could, to induce the landlords to redeem all the small charges on the land. I believe quit-rent is capable of being redeemed at 25 years' purchase.

2374. Has it been made a term or condition?

(0.1.)

No; we simply endeavoured to induce them to do it, but did not make it a condition.

2375. Marquess of Salisbury.] Then you would buy the interests so liberated at 20 years' purchase only? I did not say that.

2376. I understood you to say, that the landlord should redeem at 25 years' purchase?

We did not buy at all. We allowed the landlord and tenant to act as they liked with regard to purchasing.

2277. It was not a case of the purchase? No; nor did we exercise any compulsion to make the landlord bny up the quit-rent. 2378. Chairman. FFS

[Contains

2378. Chairman.] How did you proceed in this case. The tenaor and the landlord agreed before they came to you for a certain sum; that was, of course, looking upon the land as subject to the quit-rent, I suppose?

course, looking upon the land as subject to the quit-rent, I suppose? Sometimes it was and sometimes it was not; sometimes the agreement was ld buy the land discharged of everything.

2379. In that case the landlord was bound to do it, but supposing that had not been so, and that the tenant had agreed to pay so much for his holding, and supposing they served to treet it as whitest to the quite rest?

supposing they agreed to treat it as subject to the quit-rent?
We would not have compelled the handler it tooy the quit-rent names those circumstances; we only put a note in the margin of the applications sating that the purchase would be greatly facilitated by redeeming. This is the note:
"Sets whether it is proposid to redeem any of those outgoings out of the whether it is proposid to redeem any of those outgoings out of the sets of the purchase of the membra of these will greatly facilitate the certaing out of the proposed sale."

2380. I suppose it is, as you say; if the landlord and tenent agreed, the tenant should pay so much for his holding; that the law would imply that in some way or other he must be guaranteed against the quit-rent?

or other he must be guaranteed against the quit-rent?
The proposal of the landlord to sell, and the tenants to buy, was contained in
this document that we drew, and that set out plainly on the face of it what the
holdine was subject to.

2381. On this question of middlemen and quit-rents, have you any suggestion to make as to how these upper rents should be dealt with?

I suggest that they should be dealt with upon the same principle exactly as was followed in the case of the enfranchisement of copybolds in Bugland; there either party was at liberty to call on the other to sell or to buy, as the case might he, and if the parties did not agree within a certain time one valuator was appointed by each side, or they could agree upon a single valuator, and that

valuator's award was then taken as the amount to be paid; some such scheme as that might be adopted, I think. 2382. How would you apply that in the case of middlemen? I would allow either the middleman or the head landlord to call upon the

other to sell or to huy, as the case might be.
2383. Which would the tenant agree with?

He might not have agreed with either the one or the other; he would ultimately agree with whichever of them had the entire estate.

2384. Earl of Pembroke and Montgomery.] Would you confine the transaction originally to the two landlords?

Yes. 2385. Chairman. The tenant would have no interest in dealing with the bead

landlord, and no way of getting at him; but the tenant looks at the middleman, to whom he pays the reut, and to whom he is liable, so that your scheme must apply to the middleman? To the middleman and the head landlord.

2286. When you speak of the tenant agreeing to buy of the middleman, and

coming to the Court for an advance, the Court may require the middleman to redeem the holding from the head rent; and for that purpose to call upon the head landlord to name an arhitrator and valuator? Yes.

2387. That is your scheme, is it not?

2388. And to name one himself also?

Yes; under existing circumstances there are several cases where the head landied would be anxious to be out of the whole business, and let the land be sold to the tenants, but be finds hetween him and the tenant a middleman, and that middleman night say that he would not go out without being midd a sum which might be far beyond the real value of his interest. If the middleman is 24th March 1882.] Mr. FOTTRELL, Jan.

trying to sell to the tenauts, and applies to the landlord, the landlord may repeat the same thing, so that there is a bar in either event.

the same thing, so that there is a bar in either eveat.

2389. We have dealt with the case of the landlords so far; now, returning to
the case of the tenants, what do you think has deterred the tenants from applying

in greater numbers on agreements to purchase?

I think it is impossible for most of the tenants in Ireland to make up the occount of the purchase-money.

2300. They have to pay down one-fourth of the purchase-money?

Yes, and the instalments are not thrown over a sufficiently long period to

enable the tenant to buy, and at the same time to reduce the amount that he would have to pay annually, and until some soleme he adopted which would make the instalments payable by the tenant on purchase less than the rent which he has to pay, purchasing will not be general in Ireland.

2391. Do you go so far as to say that you must hold out inducement to the tenant which will result in his paying a less sum per annum than at present, or not to exceed the sum he is paying at present?

2392. Nothing else will do, you think?

No; he knows the individual who is the landlord; he knows he can squeeze his landlord, and that he ranned squeeze the Government, and consequently he prefers his landlord under those circumstances.

2393. You think there must be a margin to represent the extent to which he can squeeze the landlord? Yes.

2394. Marquess of Salisbury.] Is there any danger of his attempting to squeeze the Government?

I think not, My situation has been already called to the fact that the

It thank 19st. by attention has been already eached to the next that the you think as in themse of what is lively to higher as in process and includes; when the Land Lengue was at its height, before Mr. Durkt was arrested, there were some treastate who had purchased of the Church Commissioners, in the county Armagh I think, who held meetings and passed some very indignant reachings with regard to the amount they had to pay annually as the installce of the county are already to the control of the county are already as the county produced that the county are already to the county are already as the county position that not to this mad with the my. Here you see that Report's mad I have that he either went down to Armagh himself, or wrote very strongly, esling the attention of these cannal purchasers to the danger of the counter dynamic than the county of the

2305. Chairman.] Of course the great danger I suppose would be during the earlier years? Undoubtedly.

2396. The first 10 or 20 years say; after that there would be a security from the fact that there would be so much paid, would there not?

There would be a theoretic danger if the purchase scheme could be carried out instantaneously as by a magiciar's wand all over the country to the there is no scheme that can be adopted which will not necessarily take a great number of years to carry out, and by the time to one men would have got advances others would have proposed to the scheme the scheme that the country openion of his advance he will take very good over that his next door neighbour pysh his portion inderwards.

2397. I suppose, though a good many landlords may be willing to sell, some would oot be willing?

I made inquiries in Carlow, for example, and I was told there the landlords would not sell at all.

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his rent.

24th March 1882.] [Continued. 2398. Is it not the case that at the present time, and for the future, there is

an ingredient in the matter which never existed hefore, namely, that the State advancing money will have as a security the tenant's interest? Undoubtedly. I believe the loss to the State would be infinitesimally small.

2399. It would be the first charge on the tenant's interest, would it not? Certainly. What I would suggest is, that the State should advance the

entire purchase-money, not as it at present does at 34, but at 3 per cent, (for consols are now at par, and though there is, theoretically, I think a loss on lending money at 3 per cent., it is such a loss that the country ought to be prepared to bear it), and that the instalments should then be thrown over 52

2400. Will one per cent. repay the advance in 52 years? Less than one per cent, will do it. The effect of it will be that a tenunt having a 20 years' purchase of his existing rent would in 52 years become proprietor of his holding, and in the meantime get an immediate reduction of

2401. If you have the tables with you, will you let the Committee know in how many years it would be paid? In 52 years-money lent at 3 per cent, will be repoid by annual instalments

of 3 l. 16 s. 51 d. 2402. What would do it in 52 years, and leave a margin for interest over

3 per cent. ? £, 4. -s. 22 d. would repay the money if lent at 31 per cent. That would

give a reduction of 20 per cent, on the rent. The other, of 23 per cent, on 2403. It is not a question therefore of whether the advance should be at

3 per cent. strictly; it might be at 3 per cent. and a margin besides? I think if the thing could be carried out, say at 4 per cent., the advance to he paid off in 52 years, you might have sales carried out to a very large extent in Ireland.

2404. Would that lower the rent in every case?

Purchasing at 20 years would reduce it at once by 20 per cent.

2405. Would that allow sufficient for the taxation which would fall upon

the tenant as owner? Of course the reduction would not be as much as 20 per cent. net. I dare say

by advancing the money at 3 per cent. the reduction would be 20 per cent. not. 2406. Marquess of Abercorn.] The tenant if he purchased would have to pay

the rent-charge and other taxes which he does not have to pay now, would be not? That is so. I think if the State were prepared to lend the money at

3 per cent., probably the tenant would get a net reduction of 26 per cent. on his rent, because it gives a gross reduction of over 23 per cent., and probably the extra 3 per cent, would pay off those charges which your Grace refers to.

2407. Lord Tyrone. Is your calculation based on the present rent or on the judicial reut?

That would be upon any rent; I assume 20 years' purchase on a given rent. 2408. Is your suggestion hased upon that?

I do not offer any suggestion as to what that rent should be-

2400. Marquess of Salisbury. Would you allow the bargain to be concluded at present, or wait until the rent were reduced? I would allow the bargain to be concluded at present, always taking care that

the State was not advancing money improvidently. It should see in each case that the holding was good value for the money about to be paid for it. 2410. Would there not be n danger, so long as the present machinery worked

24th March 1882.] Mr. FOTTHELL, Jun. [Continued.
at its present pace, that the tenant would prefer to wait until his judicial rent

at its present seek, that the change when the man initial is judicial repair.

I facey if some such scheme as I suggest were carried out, the popular party in Ireland would be anxious to facilitate sales.

2411. Obsirman.] Do you not think that both tenants and landlord would be glad to get rid of the suspense, auxiety, and necessarily the uncertainty of litigation?

I think every man, woman, and child except the solicitors is utterly wearied by the litigation.

2412. The margio of reduction in the rent is pretty well swallowed up for two or three years in the costs I suppose? Indeed it is.

Indeed it is.

2413. Do you think that there would ultimately be any less to the State by a

scheine such as you suggest?

A do not. In the first place I say that the progress of the scheine would be controlled to the progress of the scheine which is provided to the property of the

of that union.

2414. Would you explain to the Committee how you would work that?

I would collect the money in the first insucce by the Commission, as a Stead Department, but the looks would be kept by usloss. A file he looks for the Land Commission, for example, are now kept by unloss, and it would be perfectly easy means that the contract of the commission of the com

unions, and the unions should be bound to assess the taxes to pay up that arrear.

2415. Marquess of Salisbury. And collect it as part of the poor rate, do you

mean?

I think the effect of that would be magical, because there would be always a certain proportion of people who would have paid, and directly they had

paid they would be the best police you could have for making the others pay.

2416. Chairman. It might probably have the effect of making the honest
and thrifty man who neve his installment, new for those who were not housed and

and thrifty man who pays his instalment, pay for those who were not bouest and thrifty?

Would it not he a very wholesome thing if they had to do it; if I may put it so to your Lordships, it would teach them to value good Government, and gradually

convert them to appreciate its advantages. Your great difficulty in Ireland is that it is everybody's interest to be turbulent at present.

2417. Lord Tyrone.] Might not that infliction fall also upon the landlords

It would fall upon every body in the union, and would, I think, create a very

healthy feeling at once. A defaulter would soon cease to be a popular personsge.

241S. If any landlords remained, they would have to pay for the poor rate, and if they had to pay the debts of those who refused to pay their installacots, would it not come rather hard open them?

It would, but we are discussing a mere theoretic thing; I believe, in practice, you would find it oever occur.

2419. Chairman.] Is your proposal that the poor rates having been drawn upon to pay the deficiencies of tenants as regards their instalments, they themselves should be free?

Oo the contrary, I would give the most summary powers for dealing with them.

(0.1.) G \(\sigma\) 2420. The

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24th March 1882,7 Mr. Fottuble, Jun. Continued.

2420. The power then would have to be given to the unions of selling our their holding -?

And that would be a very healthy thing too. Your difficulty is, that in Ireland it is the central authority that has to interfere in everything; once get the local authorities to interfere, they will have to hear the odium, and that will teach them their responsibility, which is at the present time the great want in Ireland.

2421. I asked you just now about other plans of dealing with the cases of arrears; have you seen any other plan of dealing with this question of purchase, and have you any suggestion to make about it:

Yes, I saw in the "Times" the other day a letter signed R. O. H., which was noticed in a leading article; the views expressed in that letter appeared to me quite untenable.

2422. Without reading it at length, tell us what occurs to you about it?

In the first place the writer of that letter would create land banks. I do not see any necessity for that in Ireland. I think it is an unnecessary complication.

2423. I suppose we may take it that the more simple any plan devised is, the more likely it is to succeed?

Undoubtedly. Of course "R. O. H." was following the analogy of Prussis. It must be remembered that in Prussia, where there are land banks, the population is twenty-five millions, whereas in Ireland the population is only five-anda-quarter millions. In Prossia there is one bank in each province, a district, as a rule, about half the size of Ireland. In the second place, he says that the purchase money should be paid by the issue of dehentures bearing interest at the rate of 30 per cent., and that in this way the landlord, selling nominally at 20 years' purchase, would get in reality 23 years' purchase. I do not suppose any one fancies that that extra three years' purchase is created. It must be made up somehow, and I think that no Chancellor of the Exchequer would venture to propose that it should be made up by the State. If it is to be made up by the tenant, I do not see why the t-maut should not know that he is paying 23 years' purchase instead of 20.

2424. I do not remember the proposal, but was it not this, that stock might he issued for the payment of the purchase money, and that on account of the favourable state of the market that stock might rise above par, and that in that way the landlord would have a convertible security that he could set more money for?

'The issue of the stock is a very judicious and a wise plan, and I think very useful; I think that that stock might be issued in the form of debentures, but I fail to see why those dehentures should bear interest at more than 3 per cent; consols are now at par; that means that the State is able to horrow at 3 per cent., and why, if it is able to borrow at 3 per cent., should the State agree to pay 34 per cent. I think the right thing is to pay to the landlord as much debentures as at the price of the day would represent the purchase money which had been agreed upon; that would ensure that he could sell the debentures for the sum which he believed he was getting in the first instance. I think "R. O. H.'s " proposal is involved.

2425. Let me ask you about the expense of purchase under the Act; have

you any idea what it would cost? About 2 per cent. on the purchase money.

2426. What does that include?

It includes the investigation of the landlord's title, stamps, counsel's fees, and, in fact, all outlay.

2427. And the preparation of his abstract? No, the Commission did not prepare his abstract; that was prepared by his

2428. Then he would have to pay for that hesides? He would. The plan they adopted for that was this: they made the rule that the Commission would do the entire work for 2 per cent., or, if the parties

liked

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liked, that they might employ their own solicitors, and then this Commission charged merely the outlay. The abstract was handed over to the Commission. 3420. They would irrestigate it !

Yes.

2430. Pay the stamps

2431. And all further costs? Yes. 2432. What is the charge for negociating?

Ten shillings per cent, that is where a landlered was auxious that the Commission should act as intermediaries between him and bis tenants to bring about a purchase; the Commissioners agreed to do that for 10 s. per cent, 2433. You sell in biook?

Yes, becoming a kind of land agent or broker,

2434. Is that as regards an individual holding? Either on individual holding or an entire estate.

2435. The Commission would charge 10 s. per cent. for that

Yes.

2436. Why should the Commission charge this 10 s. per cent.; they have got a staff; they are not put to any additional expense, are they?

There are the travelling expenses of their agents.

2437. If there were travelling expenses that would be so?
The intervention of the Commission, with a view to the bringing about such a sale as that, generally did involve sending an agent down to the district, and

staying there sometimes.

2438. And the 10 s. per cent. covered his travelling expenses i

2430. Mai the 10 s. per cent. covered his travelling expenses;
Yes.
2430. You say the 10 s. per cent. covered his travelling expenses, but suppose

the negociation went off and no price was fixed?
The agreement then was that we only charged the actual outlay.

2440. What is your opinion as to the extent of control which the State should

get over the lands sold, so loog as any of the instalments are unpaid?

The principal point of control is the provision against sub-letting or subdivision.

2441. But there would be no objection against sale, would there?

I think not. I think the freer you make the sale the better, because I conident that in the purchase by very small helders in Iroland of their holdings, and in perfect freedom of sale afterwards, lies the only chance of the consolidation of holdings in districts over populated.

holdings in districts over populated.

2442. What would you say about family arrangements? Suppose that a tenant dies, and leaves a wife, several sons and some daughters to be provided for, what is to be done?

I think there is a very much more reasonable feeling occuring over the people now in that respect. They do not now cling to the bolding like limpets to a rook, but go off to America, or to England, or shift for themselves in some way much more than they used to do; they make an arrangement among themselves that some one member of the famility is to bave the holding.

2443. With regard to the title, when once the sale takes place, if it does not take place in the Landed Estates Court, it cannot be put, as we understand, upon what is called the record of title?

That is so.

2444. Is there any reason why that should be so?

The Record of Title Act implies an indefeasible title.

(0.1.)

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2445. Do

2445. Do you say that nothing is put upon the record of title but an indefeasible title?

Nothing hut an indefeasible title.

2446. Is there, practically, very much difficulty in getting these titles that pass through the Landed Estates Court?

The greatest difficulty. The very fact of a title being indefeasible involves a number of inquiries which are necessarily both tedious and expensive, because

injustice might otherwise he done by taking away someone clac's land. If we make a mistake, all we have to do is to pay for it, but if the Landed Estates Court takes away another man's land, it is gone. 2447. With regard to these dealings with land, sub-division and so on, would

it not be very difficult for the Land Commission to know really what is done with the land, and whether it is sub-let or not? Undoubtedly it will be very difficult, but I believe there is not the same

tendency to subdivision at all that formerly existed. I believe that in practice it would not be found so likely to occur as is thought. That is the opinion, I know. of Mr. Murrough O'Brien, who has a great deal of experience in the country, and he told me that his observations with regard to the sales of the Church lands, and all the sales that had been effected, led him to believe that there was not now a tendency to subdivide, except in very rare instances, in Ireland.

2448. Could anything be done through the Poor Law unions for watching a thing of that kind? I think they would not like to be used for the purpose.

2449. They would not be good guardians, you think, in that respect? No, they would not.

2450. Earl of Pembroke and Montgomery.] The Land Commission would always have power to re-sell the holdings, would it not? Of course.

2451. Chairwan.] How far has the Land Commission, in your time, concerned itself about the price agreed upon between landlord and tenant for the holding? Their plan of operations was to send down a valuator, either Mr. O'Brien or one of his assistants, to examine the land, and then he would report to one of the Commissioners as to whether he considered the advance could sufely be made or not. In some cases the report was followed, and in some cases the Commissioners were not disposed to lend even as much as the valuator recommended.

2452. Supposing this to happen, that a tenant who was thinking of buying from the landlord came to the Commission, and said, "What will you advance me upon this holding; I am proposing to give so much to my landlord for it?" Have the Commission in a case of that kind ever advised the tenant not to give so much as he intended? I think not.

2453. You have not known of any case of that sort? No.

2454. I think it would be very desirable that the Commission should not alone value the lands upon which tenants already are, and about which sales have already been agreed upon, but that they should, at the instance of men who have large tracts of land in their own possession, if so requested, value those lands, with a view of saying what rout they would consider fair for the tenant of such land to pay, which rent should be the busis of the amount the Commission would be prepared to advance in the event of such a tenant purchasing. I know some cases in Ireland where men have a great deal of land in their own possession, and do not like to put tenants upon it, because they say, " If we put a tenant in now, he will acquire rights against us, and we may get into hot water."

2455. You

Mr. FOTERELL, Jun. 2455. You mean land held in their own hands?

Yes, but if they could have a kind of auction, as it were, or could say, there are some hundreds of acres of land; I am prepared to let that in lots of 10, 20, 30, 40, or 50 acres, to tenants who care to take it at such-and-such a rent, on terms of paving such and such a price for purchase; in that way it might relieve the congestion to some extent, because tenants who had not enough land of their own might come and take lands from the landlord having that land in his own bands.

2456. Is there much land held in Trelaud by owners in their own hands? I think there is a good deal; I know one gentleman, Mr. Goodbody, who has got several thousand scres, I think, in his own hands.

2457. Would your proposal be that the Land Commission should make an advance on what they think would be a fair value of that land ?

Yes, so that the landlord might then go to intending purchasers and say, if you become my tenant I will let you in as tenant of this land, at 50 % a year, provided you agree to buy it from me at once, and give me 1,000 & for it.

2458. Earl of Pembroke and Montgomery.] Why should be go through that preliminary operation of making them his tenants? Because otherwise he cannot get any money from the Commission.

2450. Chairman.] Another way of meeting it would be, if the powers of the Commissioners were being enlarged, to cularge them in that direction, would it? I think under their present powers they could already do what I suggest.

2460. If the man became the tenant; but why should not they have power of

making advances to the man who merely wished to become purchaser? Of course, they might have that power.

2461. Viscount Hutchinson.] Do you helieve there is no opportunity of selling in the open market, if the land is in your own hands? You have not nearly so good a chance, because that involves a man having the entire purchase-money in his own pocket; you would widen the area of possible purchasers by enlarging the power as to advances. I know a case in point of a man who is anxious to set and sell, and would do it to a considerable extent, if the Commission could see their way to act on the suggestion I have

2462. Lord Turone. Is there likely to be any purchaser of Irish land held in occupation now, except the tenants under this Act?

I should not fancy so, except on the principle that guides purchasers of bad stock. When such stocks get down low, you always find a number of speculators rush in and huy at a low price.

2462, Chairman.] Have you had any experience yourself in the fixing of judicial rents?

No. I have not. It is outside my province altogether.

2464. You have not been at any of the Sub-Commissions? I have since my retirement from office, as a solicitor practising before them.

2465. Have you considered the question at all of whether these investigations before the Sub-Commission take place in the best way, without any information beforehand from the tenant of what his case is, as to improve-

ments he claims for? I have not considered that; that is as to whether the tenant should be compelled to give information beforehand.

2466. I mean as to what improvements he is going to claim?

I am afraid in practice it would be found to be so expensive and cum-

hersome a proceeding as to make the process of rent fixing still more dilatory than it is at present. 2467. Do (0.1.)

Mr. FOTTRELL, Jun. F Continued. 24th March 1882.]

2407. Do you think that the landlord is in the ordinary position in which persons engaged in litigation are put; seeing that be does not know beforehand what the case is that he has to meet?

I am not certain that in an action at common law you would get very much more information than you get in cases before the Land Commission.

2408. Besides the pleadings, you can apply for particulars, and then you can apply for better particulars, can you not?

You do not get them, as a rule, in Ireland.

2460. The number of cases waiting for disposal by the Sub-Commissioners is very great, is it not?

Enormous; so great, that I think if the present plan be followed it is quite impossible that they can be got through in any reasonable time.

2.70. What facilities are there at present for settling any of those cases out of Court, that is, by the landlord and tenant agreeing. Are there any facilities for the landlord and tenant knowing the principle on which judicial rents are dealt with, when they come to be decided, and thus settling their eases for

themselves? Except what I see in the public press, I do not know anything about that; I do not know of any principles that guide the Suh-Commissioners. My own opiuion is, that until some very much more drastic and simple measure is adopted than the present, there will be no chance of getting rid of the block as

regards the settlement of rent; the block, I am afraid, must continue.

2471. What meaning do you attribute to the word "drastic?" Probably I shall shock your Lordship. The landlord and the tenant go into a Court now, which is said to be a Court of Arhitration, with a view of settling the rent. The Isadlord's notion of the rent is that it should be fixed, probably, at the existing rent; the tenant's is that it should be fixed cousiderably lower.

2472. At zero?

Not exactly at zero, but at any rate considerably lower than it is. The law at present says that until the tenants enter upon and succeeds in litigation, the rent shall stand at the figure which the landlord regards as fair; and, therefore, every tenant has an inducement to begin litigation with his landlord. My solution of the difficulty would be to enact that, subject to a right of appeal by either party, the rent should stand at a line somewhere between what the land, lord now regards as fair and that which the tenant claims as fair.

2.473. Marquess of Salisbury.] Do you not think the landlord should, in that view, put the rent a little higher?

He probably would.

2474. Then we should get much the same result as now, would we not? No. I think not. If the Law said the rent shall he Griffith's valuation, or 10 per cent over Griffith's valuation, subject to appeal, landlord and tenant would probably rest content with that scale rather than incur the risk of loss by further litigation.

2475. Has it occurred to you that the process you have just recommended, with reference to the recovery of instalments, might be applied also to the recovery of the judicial rent when fixed, and that the prospect of a sure and certain recovery of rent might influence the minds of many landlords as regards the settlement of a judicial rent; that is, the process of throwing it on the local authorities? That is, throwing it on the rates.

2476. Throwing it on the local authorities?

I do not think there would be the same sympathy towards such a scheme as applied to rent collection as in the case of the instalments of purchase-money. 2477. I do not anticipate much sympathy in either case?

2478, Lord

I think you would have sympathy in the second case.

24th March 1882.] Mr. FOITRELL, Jun. [Continued.
2478. Lord Brahowrne.] If your plan of striking a medium line were adopted,

would not the first effect be that the tenants would invariably put their line down at zero? No, it is not exactly a question of what the tenants or the landlords would do.

but what the law would do.

2479 I understood you to say that the law was to strike a mean between the

propositions of the landlord and the tenant?

That is the existing proposition. We have found in practice, whether rightly or wrongly, that the reuts which have been judicially fixed by the Commissioners have come within a fraction of Griffith's valuation.

2480. Duke of Norfolk.] You mean that they might strike the medium now and not wait till the cases are taken into court? Certainly, I mean the medium now.

2481. Lord Tyrove.] I understand from that answer of yours that you are referring to Griffith's valuation? Yes.

Yes

2882. It is not what the landlord or the tenant proposes, but that you are to
take Griffith's valuation, as a line, and put it so much per cent. shore or below

Yes, I mean to say that the result of the judicial decisious has been to fix rents at or about that line. If that were the law subject to anneal. I believe that

instead of having 70,000 cases you would not have 7,000 cases.

2483. Marquess of Salisbury.] That is on the assumption that we are perfectly satisfied with what the decisions have been, is it not? I do not say that either side are satisfied with the decision.

2484. Viscount Hutchinson. Still you take Griffith's valuation more or less as

a test, do you not?
I do, as the first test. It is not a perfect system, but I think the whole

husiness is very imperfect.

2485. Lord Brahmune.] Do you hold to the opinion given by previous witnesses that Griffith's valuation is, with a very limited exception, no test

witnesses that Griffith's variation is, with a very limited exception, no test at all?

My knowledge of land is very limited, and I do not really profess to under

stand it.

2486. Duke of Norfolk. You mean, as I understand you, that the law should make a general valuation of land in Ireland, in ignorance of what rents are claimed for the present helding:

Certainly.

2487. Lord Brabourne.] Then you propose that Griffith's valuation should be
the test, though you have not sufficient knowledge of land in Ireland to know

whether it is a fair test?

Not a final test. I would leave full right of appeal to either side, and I do not

Not a final test. I would leave full right of sppeal to either side, and I do not think that would injure either the landlord or the tenant; that would leave them hoth their full rights, as at present, but I helieve it would result in a greater number of settlements than come about at the present time.

2488. I understand the proposition to be that the tenant, on the one side, and the landlord on the other, should propose a rent, and a medium should be struck between the two; is that what you mean?

be struck between the two; is that what you mean?

No. I mean to say that in the cases that have heen already tried you will find
the tenants, in a very large proportion of instances, regard the rent as having
been fixed at too high a figure; the landlords I believe, as a rule, regard it as

having heen fixed at too low a figure.

2489. You drew upon paper two lines, one purporting to represent the land-lord's view, and the other the tenant's ?

(0.1.) 6 9 4 I suppose

24th Moreh 1882. Mr. FOTTRELL Jun. [Continued

I suppose this line to represent what the landlord asks, that is, the existing rent; as a general rule the landlords of Ireland do not seem to ask to have their rents raised whether rightly or wrongly. I think you will find that in the proceedings before the Sub-commissioners they have not asked for that,

2490. Marquess of Abercorn.] Does not the result of your proposition as to fixing the rent come to this, that the landlord would go into Court taking your upper line at the existing rent (which has been stated to be as a rule in Ireland not a high rent), and the tenant would have an opportunity of making a new proposition, which he would put as low as possible, and that then a line should be drawn between the two?

No. I would fix the proposed line by reference to past decisions, and not to future claims. If the landlord and tenant did not wish to go into litigation, they might take the line the law fixed, which ought, I say, with a view to getting rid of the block, to be as nearly as possible the result obtained by the judicial decisions of the Commissions.

2401. The landlord could always avoid litigation, could be not, if he took what the tenant proposed, or very nearly that?

I think the difficulty at present about the settlement is that the difference hetween them is so great that there is much room for litigation.

2402. You think the one asks too much, and that the other wants to give too

I know it, and as a matter of fact, I prepared some forms of returns for the Assistant Commissioners to send up to the Head Commission, showing the results of the proceedings before them.

2403. Lord Kenry. One of the results of carrying out your idea would be that for the future arrears will accumulate not on the present rent, but on somewhere about 25 per cent, below it; and that would have considerable effect upon the arrears, would it not i Yes.

2494. Marquess of Salisbury.] Would not the result you aim at be obtained in a more innocuous way if the Sub-Commissioners would state the grounds of their decisions, so as to enable landlord and tenant to see what the nature of their reasoning was?

I think they have stated their grounds in the Return I have in my hand, (The document is handed in.) 2495. Chairman.] Has this Return been filled up?

It has been filled up, and received by the Commission, but unfortunately it has not been sent to Parliament in exactly the shape in which it appears here. Two columns are omitted, and those are columns which I think very important.

2406. Do you refer to the columns headed "Fair Rent according to evidence given on behalf of the Landlord," and the "Fair Rent according to evidence given on hehalf of the Tenant"?

2497. In the first place I do not quite see how those columns would be filled up. Suppose a tenant produced several witnesses, some of whom were his neighhours, and so on; one says the holding is not worth more than 10 L, another says it is not worth more than 8 l., and another, taking a figure between the two, says that it is not worth more than 9 1.; what are they to put down?

I suppose they would prohably take the average of the evidence.

2498. Why should not they take the highest that the tenant produces? I know the result has been, judging from these columns of the Returns sent up, that the rent, as fixed by the Commissioners, was very much closer to the evidence given on hehalf of the landlord, than to the evidence given on behalf of the tenant. In fact, in some of the Commissions, the rent fixed was higher 24th March 1882.7 Mr. FOTTRELL, Jun. Continued.

than it would have been according to the evidence given on behalf of the landlord himself.

2400. We could hardly take that unless we had the document before us? Of course. I am merely mentioning this in answer to a question that was asked me, as to what lines were followed,

2500. As you have been given in this form of Return, I should like to ask you one more question about it; do you not think it would have been advisable to have had a column, showing the value attached by the Commissioners to the tenants' improvements, and which they were to deduct from what

otherwise would be the whole value of the holding in fixing the annual value? I helieve those facts were returned for a certain time by the Assistant Commissioners, who afterwards gave up doing it. 2501. A Return has been put in showing that it was one of the things that

they were required to show, but we were told that in practice they had not complied with that direction. I only wish to have your opinion; do you not think it would be, for many purposes, desirable to have that? I think it would be very desirable to have it, but I believe it would prove something very different, probably, to that which might be anticipated.

2502. Marquess of Salisbury. You mean that it would be much more

favourable to the tenant? I do.

2503. Viscount Hatchinson.] As a more matter of record, do you not think that it would be valuable? I think it would, and I am very sorry it has not been done.

2504. Chairman.] It cannot be more favourable to the tenant than to the landlord, because I take it for granted, that the result is founded upon the evidence? But it may be that the result was inconsequential, and did not give full effect

to the value of the column. 2505. Do you not think it would be very valuable for the purpose of appeal? I think it would be very valuable for the purpose of appeal.

2506. The landlord might be perfectly satisfied with the value put upon the holding, but not with the som allocated to the tenant's improvements, or vice verse? I do think it would be very valuable.

2507. With reference to proceedings at the begioning of another term, do you not think it would be very valuable

I think it would be very valuable for every purpose, as a record. 2508. Marquess of Salisbury.] Whatever the result, we should have the facts? We should.

2500. Lord Turone, Would it not be of the greatest advantage at the end of the statutory term, even to the tenant, as to how his improvements had been assessed ?

I think it would be decidedly valuable for every one, assuming that the statutory term system is going to continue, which I very much doubt. I think you are seeing a valuation made of Ireland once and for all.

2510. But supposing it is going to continue, you think it would be valuable? l do.

2511. It would be a valuable record to the tenant as well as to the landlord, you think? I think it would be valuable for every person, that the honest facts of the case

should be known. 2512. Marquess of Salisbury. Do you mean that you expect future Parliamentary legislation?

I mean this, that no country can possibly, every 15 years, repeat the operation we are going through now. 2513. Lord Kenry.] One would not be done before the other commenced.

Ηн No: (0.1)

you mean?

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No: I do not think the present operation will be concluded 15 years hence, if

conducted on the present lines. 2514. Lord Torone. With regard to the question you answered just now, about

fixing the rent at Griffith's Valuation, you mentioned that that was the average that the Sub-Commissioners had arrived at?

I did not say that Griffith's Valuation is exactly the average; I say that they have hovered very closely about that line, I understand.

2515. Why should you take that as an average of the whole of Ireland: because, as you are aware, Griffith's Valuation varies very much?

I do not say it is anything like a perfect test, but that it will choke off a number of cases which would otherwise be tried out.

2516. But you do not consider it would be fair then?

Not as a final test undoubtedly.

2517. Marquess of Salisbury.] You consider that in cases when it was not fair there would be an appeal? There would be an appeal, and thereby the unfairness would be remedied.

2518. You think that where it was approximately fair, the people would submit to it for the sake of avoiding cost?

Exactly. 2519. Chairman. Is there any sale for land in Ireland just now?

There is very little. Properties have been put up in the Landed Estates Courts frequently without any bidders appearing. There have been some few sales, but I think they have taken place under exceptional circumstances. One, for example, was by a client of my own, but then he bought the land because he was need money on it, and it was the best way of saving himself.

2520. He was the incumbrancer? Yes. But I think purchasers are more amongst the tenants than among the

outside investing public. I think there is very little sale for land at present. 2521. Where the tenant's interest is put up for sale, is there in that case also any difficulty in finding purchasers?

The difficulty proceeds from a different cause there.

2522. I did not refer to a case where the landlord is forced to sell his tenant's interest, and where there is an unwillingness of bidders to come forward; I meant a case of tenant's interest, put up under fair circumstances, and the tenant himself selling?

I think there seems to be a great cessation of that kind of sale at present.

2523. I have had two cases not into my hands; I do not know whether you know anything about them or about the circumstances connected with them. Here is a case from Mallow, which occurred last Monday or Monday week: "To-day, by directions of Mr. Maurice O'Brien, a tenant, his interest in a farm, containing 82 acres plantation, held for a term expiring 1st November next year, at a rent of 147 L, was put up for sale by auction. There were over 30 farmers competing, and after some keen competition, it was knocked down to a farmer named Parrick Cullins for 700 L." That looks like business, does it not? It does.

2524. Here is another case which took place in Kilkenny: "Mr. J. D. Wilson, auctioneer, put up for sale last Saturday afternoon the interest in the farm known as Clarabriken, containing 105 a. 3 r. 26 p., with the dwelling-bouse and out-offices. The farm which was lately in the occupation of Mrs. Hart, was before the Sub-Commissioners at their sittings here in January last, when the rent was reduced from 180 i. to 152 i. The interest was sold to Mr. Thomas

Hoban for 605 L ? It is quite possible that that may be very just; but I express no opinion on it, as I do not know the facts concerning it. I do not think there is much selling at present; of course, a state of affairs like that which exists in Ireland necessarily restricts business of every kind.

2525. Lord

2525. Lord Brabowrse.] Still a tenant can sell his interest by competition, can be not?

He can sell his interest by competition.

2526. And the competition has been taken from the landlord, has it not?
The principle laid down by Mr. Litton in his judgment in Adams v. Danseath,
was, that the landlord could not have the benefit of competition because he had
not got that which was the object of competition, namely, the possession of the land.

not got that which was the object of competition, namely, the possession of the land.
2527. That is so, is it not?
Yes.
2528. That is to say, there being two interests in one property, the owner of

2020. And is to say, there omegow interests in one property, the owner of one, rightly or wrongly, can ascertain its value by fair competition, and from the ascertainment of which the other interest is excluded? That is so.

2529. Marquess of Salisbury.] In a letter which has become celebrated, you mentioned that there were certain difficulties you foreast in the way of completion of purchase. Are those the difficulties which you have detailed to the Committee to-day; I mean in the way of the operation of the purchase clauses? Yes. The fact was titls, that the Land Act of 1881, whether designedly or

not I cannot say, undoubtedly offered more inducements to the towards in reference to the settlement of rent than in relation to purchase; it directed their attention first to the settlement of the rent and withdrew them on that account from the consideration of the purchase clauses for the present.

2530. The purchase clauses did not receive the development which you think it would have been desirable they should receive?

I do not think they did receive the development which would have been desirable.

253). Marquess of Abercorn.] Is this not one of the reasons that the Land Act of 1881 placed the tenants in such a position that they had not the induce-

ment to buy?

They had not the inducement to buy; there is no doubt that a tenant buying under the Land Act of 1881, would probably have had to pay a least the contract of th

2532. Marquess of Salisbury.] Do you rate very high the desire of the tenant to become a freeholder. Do you think he is influenced by what is called the margic of property?

I think there is a very strong desire in that direction. It is in a state of suspension at present almost, because people's attention is so much directed to the reduction of the rent; but as soon as the react is estiled, I believe there will then he a very great desire on the part of tenants to buy up their holdings.

2533. Do you think there would be in Ireland, as in France, entirely apart from the merely pecuniary question, a very strong preference for the freehold over the occupying tenure?

My experience in Kerry led me to infer that the tenants had a great anxiety to

become proprietors. It is one which I think will likewise grow, according as the people get more educated and more prosperous.

2534. You think that feeling likely to grow and not to diminish I do.

2535. Duke of Somereet.] Do you consider it desirable for the future peace of Ireland, that there should be established a larger number of peasant proprietors? I believe it to be absolutely essential.

2536. You think it to be very essential?

(0.1.)

I do. 2537. Then the purchase clauses of the Act are the most important clauses in that sense?

ин2 I think

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I think they are. I think so long as the relation of landlord and tenant continges to be the almost universal relation in Ireland, you must have a state of

| Continued.

unstable conflibrium in politics. 2528. Maroness of Salisbury. What should you regard as a stable equilibrium?

I should regard as a stable coullibrium that position of things in which the majority of the people would be anxious to be conservative in the best sense. 2530. Lord Brabourne. Does that mean that they, having acquired land,

would become landlords, and would wish to conserve the land as landlords? It means that they would have everything to lose by turbulence, and would therefore be anxious to avoid it, whereas at the present time they have every-

thing to cain hy it. 2540. Marquess of Salisbury.] Do you think that among the things they would

desire to conserve would be their allegiance to Queen Victoria? I do not think there is much desire to shake off their allegiance to Queen Victoria

2541. Lord Brabourne. Do you mean that "Conservative" in the hest sense

of the word signifies a person possessing land? I do not : I consider Conservatism consists mainly in persons being lawabiding citizens, and observing those conditions which are calculated to promote

law and order. 2542. I understand you to say that the way to make them law-abiding citizens is to make them peasant proprietors; that is to say, that a great many of them

should possess land? I think it is.

2543. Duke of Somerset. If the object is to induce tenants as much as possible to become owners of land, is it not desirable to take off all restrictions from them when they are the owners, and to put them in the position in which an owner would be in England. An owner in fee in England cau do what he likes with his land, but the owner in Ireland, under this Act of 1881, when he has hought the land is still under the commission, and cannot divide it, or deal with it as he might wish? I think he might deal with it as he wishes in almost every way, except in the

matter of division.

2544. That is a vary important point, is it not : It is an important point, but I think there is undue importance given to the

I would.

belief that a desire for sub-division exists. I do not think that it does exist so largely as people fancy. 2545. Chairman. He could get rid of that trammel to which the noble Duke

has referred, by paying off, as he was able, the instalments of the purchase money, could he not? Undoubtedly.

2546. Lord Carysfort.] Would he he shie to let his land after he had purchased it, and take it up after a few years? I think it highly desirable he should not be able to do so. I think you would hy that means bring about the system of middlemen again.

2547. Marquess of Salisbury.] You would make a perpetual entail upon him? Not a perpetual entail, because he might sell.

2548. Would you never allow him to let his land? I would never allow him to let the land so long as he owed money to the State. That is the check I would put upon him.

2549. But after he has paid off his indehtedness to the State, what then? Then he must do as be likes; I think as long as the State has money due to

it, it ought to prevent him letting that land, because it would produce a set of paupers underneath him. 2550. Lord Brabourne.] Then you would let him let without any tribunal fixing the rent?

2551. Chairman.]

Mr. FOTTRELL, Jun.

2551. Chairman.] That is nothing more than every mortgagee has a right to do at present; every mortgagee has the right to determine who shall occupy the land. If tenants are put upon the land that he does not like, he may dispossess them. Suppose I have security, on a fre-simple estate, and I find that my mortgagor, on my leaving possession, is sub-dividiog the farms to an extent greater than I think desirable, I may refuse to confirm the leases of the holdings, and dispossess the holders, is it not so?

Of course your Lordship would not be hound by his acts. 2552. Marquess of Salisbury. 1 You have, I think, been in the bahit of super-

intending the loan of money on land in Ireland, have you not? I have had considerable hosiness of that sort.

2553. Can you tell me whether it bas remarkably fallen off? Completely.

2454. There is no money lent on land now? Practically none.

2555. Not even, I mean, from Irish sources?

Not from any sources.

2556. Chairman. Are the mortgagees calling in their money? I think they are not exactly calling in their money; there has been singularly little attempt to foreclose or sell in the Landed Estates Court, everyone

seems to have regarded the situation as a bad one, and one to be tided over hy forbearance. Margins have a tendency to disappear at present, which frightens mortgagees. 2557. Viscount Hutchinson. I Do voo know what the Scotch insurance com-

panies do ? I do.

2558. They are not lending money at all, are they?

I do not think any insurance company is lending money at present. 2559. Marquess of Salisbury.] Do the local banks lend money?

They did, and they lent it very improvidently; but I do not think they are lending much at present.

2560. Viscount Hutchinson. They lent it on the security of the tenant, did they not? Yes. The system of the hanks, as a rule, down in the rural districts, was to get as many ioto the net as they could, that is, they get as many names as pos-

sible on the back of a bill. 2561. What is the usual rate charged? In the rural districts they lent money in the way I speak of at 10 and 15 per

cent., so I have heard, but I cannot say that of my own personal knowledge. Those are loans for very small sums. 2562. Marquess of Salisbury. Is it not the case that a large number of

tenants live on holdings not sufficient to nourish them if they trusted to those holdings alone? That is so, especially in the West,

2563. Has there not been, during the past years, a practice on the part of the

banks of making up the income to these men by lending? I am not aware of that? 2564. At all events, the increased security given by the Act of 1870 did have

the effect of increasing the amount of loans granted by the banks to the tenants? It did.

2565. But the Act of 1881 has not had an analogous effect yet, has it? I think not. There is a very wholesome dread now that a tenant, if he has money lent to him, might possibly decline to go out of his holding.

2566. So that money will not hegin to flow again until order is restored? (0.1.)

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[Continued.

It will not. I know, down in the West of Ireland, the shopkeepers are dealing wholly for cash, which has a most wholesome result as a corrective. There are shops in the small towns of the West of Irelaud, where there is so much as five, six, and seven thousand pounds due to an individual shopkeeper. Now those shopkeepers are dealing with the same men; they are not getting paid (or very slowly, and by degrees) the arrears, if I may so call them, of dehts. But their present transactions are almost, if not altogether, on a cash basis.

2567. And they do not venture to sell a tenant up? No. not as a rule.

2568. Lord Brahemme.] And they do not look to the State to get their arrears back? No.

2569. Viscount Hutchinson.] I suppose they labour very much under the same difficulties, the same disabilities, in the way of collecting their arrows, as landlords do ?

I think they recognise the truth of the maxim ex nihilo nihil fit; the money is not there to be got.

2570. Marquess of Salisbury. You do not think there is any considerable amount of money belonging to the farmers at the banks?

I am sure there is a very cousiderable sum of moucy belonging to the farmers at the hanks, but it does not follow that they are the same farmers who owe these enormous sums. I do not think they are; at least the impression among the shopkeepers to whom I have spoken in the West of Ireland is, that the people would pay them if they had the means of doing so.

2571. Viscount Hutchinson.] As to means; nohody appears to have been very much paid during the last two or three years, yet the tenants must have made something. They have had very good harvests, what has become of all the money? If you take the 18,000,000 L I spoke of off the harvests for three years, and

recollect that the aggregate of 18,000,000 & represents that which is the mainstay of those small holders, you will see that they could have made hardly anything

2572. The last two seasons have been exceptionally good, have they not? They made something, and they have been paying cash where they fermerly used to get credit.

2573. If they have not expended anything very serious towards the reduction of those debts, compared with what they must have made in the last two years, and which has probably covered more than their living. Where has the surplus gone to, if not to pay the debts or the rents? I daresay it has gone towards paying the dehts. I say it is being very

gradually done, not very largely. 2574. Marquess of Salisbury.] The general inclination has been to pay the

tradesmen before the landlord, you think? That was the advice given to them from higher quarters.

2575. Chairman.] There is a difference in the power of advancing money with regard to property sold in the Landed Estates Court, and sales through the medium of the Land Commission, is there not ?

There is; there is rather an anfortunate wording of the section. The 24th section says the Commission may advance money un sales from landlord to tenant, and the Commissioners arrived at the conclusion that the word "landlord" did not include a sale by the Landed Estates Courts, and that they

2576. How much may they advance under that Act? By the Act of 1870 it was two-thirds of the price; hut that was, by the Act of 1872, altered; at least Judge Flanagan interpreted the latter Aot as meaning two-thirds of the value.

2577. So

were obliged to fall back upon the Act of 1870.

purchase-money.

2577. So that if that falls below three-fourths, the Land Commission

consider they are bound to take the smaller limit?

In practice they have taken the smaller limit. I do not think they are bound to do so at all. I think, under the Act of 1872, and the 35th section of the Act of 1881, which gives them the powers farmerly vested in the Board of Works, there is nothing to prevent the Land Commission lending the entire

2578. Three-fourths of it, you mean? The entire of it, provided the two-thirds of the value was equal to the entire price.

2579. But, suppose that not to be so? They can only lend two-thirds theu.

2580. Earl Stankope.] Would you extend the period for the repayment of the loan? Undouhtedly.

2581. To what extent?

To 52 years; that is the same period as was given for the tithes.

2582. What would that reduce the interest of the tenant to? I have explained that if the money was lent at 3 per cent. it would

reduce the instalment to 3 L 16 s. 5 t d. per cent. 2583. I think you stated that you were in favour of the State advancing the

the whole sum required for purchase. I am. I believe there is just as little liability to loss in advancing the whole

as three-fourths, and very much greater convenience.

2584. What security would the State have for the repayments of the instalment? Firstly, the occupation-right of the tenant, whatever it is; secondly, the

interest which was being purchased; and, thirdly, the rates of the minn in which the land was situated.

2585. Marquess of Salisbury.] Have you any knowledge as to the appointment of Sub-Commissioners ? Very little. That was done entirely, I thick, by Mr. Porster.

2586. You did not take any part of the duty of ascertaining the antecedents of the Sub-Commissioners? No, that was not my function .

2587. You said "very little;" had you, in fact, anything to do with it? -Absolutely nothing. I would ask liberty to make an observation in reference

to the pamphlet, "How to become the Owner of your Farm," which has been alluded to recently in the press. There was a question asked in the House of Commons as to whether that pamphlet was revised by any person before it was issued by the Commission. I desire to say that it was I who wrote the articles; that they were reprinted by the "Freeman"; that they were revised by me, and that no person in the Commission had snything whatever to say in the matter except myself. 2588. Chairman.] I think the question was asked of some person, comparing

the letters as they were published in the pamphlet form, by the newspaper, and as they were printed by the Stationery Office, how they came to he hraken up into paragraphs with headings? It was I who broke them up into paragraphs, and put the headings at the top,

and that was the only alteration that was made. 2580. Marquess of Salisbury.] I think the question was asked whether Mr.

Godley's initials were affixed to the second as well as to the first version? They were affixed to neither one nor the other.

2590. I understood Mr. Godley to say that the order to print was initialled by him? Yes, it was; but he never had anything to do with it, or with the pamphlet,

from that time afterwards. (0.1.) 2501. That HH4

24th March 1882.7 Mr. FOTTBELL, Jun.

2501. That was all he had to do with it?

Certainly. Everything except the mere giving of the order was done by me. The Witcess is directed to withdraw.

Mr. ROBERT ORR, called in; and Examined.

2592. Chairman.] You are a Solicitor practising in Belfast and at Ballymena, in the County Antrim, I believe?

2593. Are you well acquainted with the landed property in those neighbourhoods ?

Yes.

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I am. 2594. Have you had any experience yourself of the working of the Laud Act of 1881 before the Sub-Commissioners

Personally, I have not been before the Sub-Commissioners, but my partner has been. Of course I have a general knowledge of the cases that came from my

office. 2595. Have you and your partners found any inconvenience from the manner in which the cases are what is called "listed," for hearing?

Very much.

2596. What is the inconvenience which you have experienced? In the first place the notice is onite too short.

2597. The notice that the case will be heard you mean?

2508. How lone is it?

A fortnight professedly, but very often owing, I suppose, to their being overworked in the office, it does not reach the solicitor until within a very few days, perhaps of the sitting of the Commissioners.

2509. Is there a rule that you should have a fortnights' notice? There is supposed to he,

2600. Is there a rule, or what does the supposition you speak of arise from? It is more a regulation than a rule. I do not think it is in the rules; I think perhaps there were complaints that the solicitors had no notice, and this list was sent out, it was supposed to he a fortnight before the hearing.

2601. If you get a shorter ootice of a few days only, one you not remonstrate, and have the case postponed? No.

2502. Is it your opinion that supposing you get a fortnight's notice, that fortnight is too short?

Yes, I rather think it is. I think we should have three weeks, or a month's notice, for this reason; it is not so much the solicitor's work, as getting the valuations that requires time. It is very hard on a landlord who has a great number of cases, to send out beforehand a valuator to go over all those cases; whereas, if he knew a good time beforehand what cases were coming on, he would tell his valuator to devote his time to those particular cases, and there

would be of course a great saving of expense, as well as of time and trouble. 2603. How long do the Commissioners sit at a time? A week in each place.

2604. We understand that they do not sit every day hearing cases? No, they go out to visit the farms; in fact, their sittings, are very irregular, and their hours of sitting also.

2605. How many days a week do they sit, and how many days a week do they visit? That of course depends upon the number of cases, at each place sometimes

2606. How

[Continued.

there are more cases than at others.

24th March 1882. Mr. Onn. Continued.

2606. How many cases are listed for one place, in your neighbourhood? Forty to 50, or sometimes 60 cases.

2607. How often have they sat at Ballymena or Belfast? They have only sat once.

2608. Only once since the Act passed, for one week ?

That is all; they have commenced a second circuit now, but they have not got to Ballymena or to Belfast yet.

2600. When did they begin to sit? In October, I think it was. 2610. Do you mean that for the county Antrim they have only sat once

since October?

That is all. 2611. For as many days in one week as they were sitting?

I think so; that is my recollection of it. 2612. Then bow many cases out of the 40 or 50 listed were disposed of?

That I do not quite recollect, because of course a great many of the cases I had nothing to say to. There is no doubt they have to adjourn a great many cases. 2613. You mean that there was not time to hear them?

There was not time to hear them, the Commissioners baving to go on to the

next town. 2614. Would that be a cause of costs to the persons in those cases; were

they all prepared for hearing, do you suppose, with their valuators? Yes, certainly, their witnesses were all in attendance.

2615. The cost must have been considerable, then ? Certaioly.

2616. On both sides?

Of course they are not so heavy on the tenant's side, because their valuators are farmers generally, and probably they get their services for nothing; they do not produce professional valuers.

2617. Lord Brabourne. Do you think they would give the tenant their services in the hope of receiving a similar service from him very often?

I expect that would have much to do with it, 2618. Chairman. Has any suggestion occurred to you by which the block of

business in the Courts could be mitigated? I think, in the first instance, if competent valuators were sent down to reto the Commission, something like the principle laid down in the Bill, which

was, I think, brought in by Mr. Dickson, would be a very good system. 2610. What was that system?

I have the Bill here.

2620. Is that a Bill brought in this year?

Yes; he proposed that when the originating notice was served, the Commissioners should send out two valuators to report to them, giving notice of course to both sides of the day they would attend on the lands; the valuators to make a report, and then if there was no appeal within a mouth, the judicial rent was to be fixed upon that report. I think that would be very satisfactory if those valuators were really qualified persons, and with regard to that I would suggest that they should he appointed not by the Land Commission, but

by the Valuation Office, or the Commissioners of Valuation. 2621. Those two valuators would virtually be the Suh-Commissioners, would they not?

Assuming that there was no appeal from their decision, they would 2622. But

* The witness afterwards asked to correct this statement, he having recollected that the Sub-

Commissioners had been twice round the towns on their circuit.-R. H. Orr. ΤI (0.1.)

MINUTES OF EVIDENCE TAKEN BEFORE THE

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24th March 1889.] Mr. ORR. Continued.

2022. But there is an appeal from the Snb-Commissioners, is there not?

Certainly. 2022. Then these valuers would not only have to value the holding, but they

would have to enter into that which we understand is perhaps the most difficult question, the apportioning of the part of the rent which is to be assigned to the tenant's improvements, would they not?

Certainly. 2524. They would have to try the question of what the improvements were, and who made them, and what the value was ?

Certainly. 2624. And they would have, therefore, not merely to go down as valuators,

but to sit as judges and take evidence? They should not take evidence; they should certainly inquire into those matters which were alleged to be improvements, and have them pointed out to

them. 2626. Would it be any better to take the tenant's conversational state-

ment? Of course the landlord would have his representative there, to contradict any-

thing the tenant might allege, if necessary.

2627. Is not that very much like taking evidence? To that extent it is, but I do not think they should supplement it by hringing in professional men before them.

2628. You would dispense with professional valuators?

Quite so.

2629. But with regard to questions of fact, there would be difficult questions about improvements, such as when they were made, and by whom they were made, what was the cost, and so on? Of course that must he inquired into.

2630. Marquess of Abercorn.] You would require two valuators for every Suh-Commission, would you not? Of course you would.

2631. Chairman.] What would you do if they differed? Then they would go in the ordinary way before the Suh-Commissioners.

presume their report would not be adopted. 2632. Marquess of Salisbury.] Do you not think they would generally differ

Not if appointed in the way I suggest by the Valuation Office. 2033. Who?

The Commissioners for tenement valuation; Mr. John Ball Greene is at the head of it.

2634. Do you think that their impartiality could be relied upon? I think so.

2635. Is it not rather difficult to get an impartial valuator now in Ireland? Certainly in the way they are appointed at present by the Land Commission; I am referring now to the Court valuers, of course.

2636. Chairman.] We understand that the Sub-Commissioners, so far as we have heard, have not appointed valuators?

Not in the way that the Chief Commissioners have done, but they have once or twice asked an independent valuer to make a report to them.

2637. Have they done that in your neighbourhood? Yes, I have known them to ask Mr. Edward Murphy to make a report to them. 2638. Marquess of Salisbury.] It was stated to us that valuers were somewhat carried away by the stream of popular feeling, and not wholly uninfluenced by a

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24th March 1882.] Mr. Oan. [C

desire of standing well with the Sub-Commissioners; has that come at all across your experience. I can only give you the results of the cases which I know they have dealt

I can only give you the results of the cases which I know they have dealt with, and certainly their valuations are very low. I refer to the case of Mrs. Dunesth, Mr. Gray and Mr. O' Brien made an independent valuation at the request of the Chief Commissioners; I have copies of those valuations here.

2639. Without referring to an individual case, your impression is that the tendency of valuers has been to be unduly low in their valuation?

I think so, so far as my personal knowledge goes.

2640. Would you attribute that to any arguments they might derive from the state of prices, the competition of America, and so forth; or to any circumstance actions from the might produce of Lucked?

arising from the political condition of Ireland:

I should think it would arise probably from the instructions they would get from the Chief Commissioners, as to what principle they were to make their valuation upon.

2641. Then you have not seen such tendency to lowness of valuation on the part of the private valuers, who are appointed by the landlords?

2642. You have not seen that, l understand you to say \tilde{r} . Craimly there is a difficulty in getting independent valuers on the part of landlords.

26.3, Lord Tyrone.] Have you heard any reasons for the valuations which have heen given by landlords' valuators being in some instances below the original rents, or have you heard any reasons given by the valuators of the landlords for valuing so low?

I have not.

2644. Earl Stanhope.] Do you think that Mr. Dickson's Bill (to which you have before alluded) would facilitate the decision of the Sub-Commissioners in

determining fair rests?

I think so. If the valuators were appointed by an impartial tribunal like the Commissioners of Valuation, I think their valuations would be adopted in many cases.

2645. And you think that more cases could be decided than are at present? I think so; and that is the only solution of it that I can suggest, apart of course from multiplying the number of Commissions and Sub-Commissions.

2646. Chairman.] According to your suggestion, if they differed there would be no decision, and they must therefore go before the Commissioners?

They must go, and would go, but 1 magine that a great number of cases

They must go, and would go, but I magine that a great number or cases would be settled on their report, and there would be no appeal from it. 2547. Do you think there would be more done in the way of settlement of

cases if any principle was made known by the Sub-Commissions in the way of giving their decisions?

No doubt it would sid a good deal; if the principles were declared, no doubt

that would assist. I think that is a very strong point.

2648. Have the landfords and tenants at present any data to go upon as to
the principles upon which the Court proceeds in fixing their reuts?

the principles upon which the Court proceeds in fixing their results?

Now whatever, so far as my experience goot. I certainly think that the
Commissioners should first of all declare what is the gross letting value of the
ferm, and then doctor how much blond be taken off for the treasts "improvements, giving the facts and figures. No doubt they should be pressed to do
that in every case. That is shown to be owing to the decision of tha

Court of Appeal in the case of Adams v Dunscath. If that is not done that decision is utterly worthless.

2649. Unless they discriminate between the two elements, you mean?

Undoubtedly. 1 I 2 2650. There

Mr. Orn. [Continued.

2650. There would be no opportunity of knowing that the decision is adhered to unless that were done?

None whatever.

2651. Lord Tyrone.] In your experience of the Sub-Commission Courts, what is the difference between the way in which the evidence given by the landlord is

taken, and the evidence tendered by the tenant?

I do not understand. The tenant's valuator simply gives a rough value of the whole farm. They do not attempt to give the field to field valuation; they never have maps, and of course the landfords' valuers value it with all those

never have maps, and of course the landlords' valuers value it with all those materials, and give the evidence very particularly.

2652. Have you had any experience of a landlord who had his land let high,

having it reduced in the same proportion as a landlord who had his hand let low?

I have certainly known of high rents heing made fair rents, and of what

were reasonable reats before being made low routs, much about the same proportion being taken off each.

2653. Marquess of Abercorn.] In fact the landlord whose rent was high had

a hetter chance, on the whole, than the one whose rent was fair?

He had a better chance, certainly; that is my experience.

2654. Lord Tyrone.] I think you mentioned in reply to the noble and learned Lord, that there has been great inconvenience in consequence of no ressons being given for the decisions?

Certainly, because, in the absence of reasons, it is utterly impossible to know

whether you have any grounds for appealing or not.

2655. Is it not also a great cause of preventing settlements out of Court ? I thing so, certainly.

2656. Do you consider that there would be more settlements out of Court if the landlords and tenants both knew the lines on which the Sub-Commissioners were proceeding?

Undoubtedly."

2657. I suppose you act for a large number of landlords?

Yes, I act for several large landowners.

2658. From your knowledge of them, are they inclined to settle out of Court, and do you think they would do so if they had some sort of a line to go by? Yes, I think they would.

2659. I suppose that would materially assist in preventing the block which at present exists in the Land Courts, would it not?

Certainly.

2660. What is your experience of the effect of those decisions upon the state of the tenantry of Ireland lately?

of the tenantry of ireland lately?

I think they have got most extravagant ideas now. They are getting much more than they ever expected, and the consequence is that tenants who were perfectly contented at the commencement of those enquiries are now quite

discontented, and are making extravagant demands from their landlords. I know several cases in point.

2661. Can you quote any particular cases that have come under your own

notice?

I know a case near Larne, where I am agent for the property; when I first became the agent two tenants there asked me to give them leases at their then rents.

2662. Chairman.] What year was that in?
About 1869 I think, we near as I can recollect; I think they were minors in that case; I could not give them lesses, but I said I would not raise the rents and never did raise the rent; those rents have heen paid punctually all along:

they

24th March 1882.] Mr. One.

they are very low rents, something helow Griffith's valuation, I think. A very short time ago those two tenants woited upon me, and said it was utterly impossible that they could continue to pay such high rents, and demanding

a very considerable reduction, amounting to something like 30 per cent. 2663. Marquess of Salisbury. What sort of rents did these tenants pay?

About Griffith's valuation. 2664. I mean, what sum did they pay?

In one case the rent was 60 L, and in the other about 55 L

266s. Lord Tyrone. Do you think the bad years may have had anything to do with their demand? Yes, perhaps a little; no doubt farmers have not been quite so prosperous the

last few years as formerly, but the difference has been not at all sufficient to justify such a great reduction as was demanded. 2666. With regard to the valuation made by the Chief Commissioners' valua-

tors, bave you had any experience of their valuing land at a time when it would be impossible to ascertain its true value? In the Dunseath cases, one of the farms was partially flooded at the time the

valuers went out to inspect it.

2667. What valuators were those? The Court Valuators, Mr. Grav and Mr. O'Brien,

2668. And one of the farms was flooded, was it? Partially flooded. There had been n good deal of rain at the time, and the

river which runs past the farm had overflowed its banks. In fact the land is subject to floodings, and in that condition it was of course utterly impossible for them, they being strangers there, to place any value upon it.

2660. But they valued it in that state notwithstanding, did they? They did.

2670. As to the delay there is likely to be in hearing the cases already listed, what length of time do you auticipate it will take to hear the cases that are already before the Courts?

That is very difficult to estimate; several years at least I should say, unless some principle is laid down, or some new plan devised. If allowed to go on as at present, it will certainly take eight or 10 years, I think. 2671. Are you calculating the number of cases actually listed, and in respect

of which notices have been served? Yes. I refer to about 70,000 cases.

2672. But I suppose you are under the impression that a great number of additional cases will come in ? Certaioly.

2673. Your knowledge, I suppose, is mostly confined to the north of Ireland? My knowledge is confined to the county Antrim.

2674. Do you consider that the greater number of tenants will be likely to go into Court, as things are going at present?

I certainly think so. I know that in the case of the estate of Lord O'Neill, where there are 3,000 tenants, as yet only 90 have served originating notices, but I imagine that many others are waiting to see the result of those cases.

2675. Chairman.] Have the 90 cases been heard yet?

No; two have been heard lately. 2676. Lord Tyrone.] You do not seem to unticipate many settlements out of

Court? Certainly not, unless principles are laid down. Everybody is quite in the dark at present. 2677. Do IIз (0.1.)

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24th March 1882. Mr. Onn. [Continued.

2677. Do you not consider that it will be a great difficulty at the end of 15 years, if there is no record for both landlord and tenant, of the way these decisions have been arrived at a

Certainly; and that is another reason why these particulars should be given.

2678. It might affect the tenant almost in as great degree as the landlord, might it not?

2679. Do you think there might be a further inducement to the tenaots not to pay rent, pendiog their cases being decided?

By reason of the long delay, does your Lordship mean?

2680. Yes? Yes, certainly; I think they are much dissatisfied.

2681. As to the purchase clauses, I suppose you agree with the previous witnesses we have had before us, that up to the present time they have not been .

worked at all? They are a dead letter at present.

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It might.

2682. What would you propose in order to make them more workable? Of course if you extend the time which the tenant has to repay the purchase money, and give him hetter terms with regard to that, I think that would be an improvement; for instance, if instead of repaying io 35 years, they had 60 years, or some period like that, in which to repay the purchase money. I do not see the slightest use of having soy enactment about it, uoless some advantage is given to the tenants; that is, they would not be content unless they paid some-

2683. That is to induce the tenants to huy?

thing less than the judicial rent. To induce the tenants to buy,

2684. Do you think that if money was lent to them in such a manner as to enable them to have their farms of a certain future date by paying less rent, that large numbers of them would be inclined to purchase? I think they would, decidedly; certainly in the north of Ireland.

2685. Do you think that large numbers would do so? Large numbers.

2686. And they would prefer purchasing to the expense of going into the Courts, you think?

Yes, certainly, if they got some gain by doing so.

2687. But would they be prepared to purchase upon their present rents? No, not the present rents, but the judicial rent.

2688. But then they would have to go into Court first, would they not it Certainly.

268q. Then there would be no purchase until after all those cases had been settled?

· I think not. 2600. Would not that be a great har to the future arrangements as to

purchase? Certainly. There is no facility given for settling these cases. If the block is not removed, the purchase clauses will be interfered with.

2691. Chairman.] Might not one of the inducements to purchase he the getting rid of the cost and uncertainty of the proceedings necessary in order to get a judicial rent fixed? Of course if you declared a standard on which they were to purchase, it might be.

Supposing

24th March 1882. Mr. ORE [Continued.

2692. Supposing the laudlord and tensut could settle between themselves how many years' purchase of their present rent they would agree for of course that might be a smaller number of years' purchase than the number required for a purchase on the footiog of a judicial reut? Of course in some cases they might agree, but I fancy until they knew exactly what the indicial rent was to be, they would not be inclined to norchase

2603. Have you any ease that leads you to that conclusion ?

No. I have not.

etioa. It is only your own supposition? My own supposition.

to agree to do anything.

2005. In your neighbourhood have they a disposition to become the owners of the land rather than to remain as tenants?

Before the Act they certainly were very glad to huy when the opportunity arose. I have known several cases where the tenents bought at very large prices indeed through the Landed Estates Court, but now of course their expectatious are so high, in fact they are so unsettled, that you cannot get them

2606. Lord Toyone, Have you heard any suggestion by which these purchase clauses might be made more workable, or have you any suggestions yourself to

Of course there are several suggestions which I have seen. I myself have no particular suggestion to offer, except a very rough one. For my own part I would prefer that the landlords should not be purchased out. I think it would be very bad for the country if they should be. I should like some scheme which would still keep the landlords in the country, if such could be devised, as, for instance, by giving perpetuity leases at judicial or fair rents, and then the State advan ing money to enable say three-fourths of the rent to be purchased by the tenant on reasonable terms; I think that some scheme like that would be beneficial to everybody. The landlord would be retained in the country; he would have a small interest left.

2697. Marquess of Salisbury.] Do you not think he would go and speed the money somewhere else?

I think from the landlord's view it would be better to purchase out and out. 2008. If he got a perpetuity rent, he would still go and enjoy that perpetuity rent somewhere else, would he not?

He would be still the nominal owner of the property, with rights as to minerals, and rights of shooting, and his residence would be there still; of course he might go away.

sting. Marquess of Abercorn.] He would be something in the position of a landlord who has given a long lease, would be not? Reactly so ?

2700. Lord Tyrone.] Is he not, under this Act, a nominal owner? No doubt he is.

2701. I suppose he would have almost all the advantages that are left him, under this Act, if he gave a perpetuity lease?

Yes, certainly, 2702. Therefore you consider that this Act more or less gives leases in per-

peruity to the tenants? Yes, I do certainly. Still, of course, it is subject to revaluation at the end of every 15 years.

2703. Do you think there is any likelihood of those revaluations being at any

time in favour of the landlord? My own opinion is that they will not be so, but of course there is a great difference of opinion upon that point. Some people think that tenants will be encouraged to spend a great deal of money upon their farms, and that there will be no chance of getting any further reduction, but I do not hold that opinion. II4

Mr. ORE. 2704. What do you mean by no chance of getting any further reduction? No further reduction at the end of 15 years, because their improvement

will be so great.

2705. But surely under the working of this Act those improvements could not possibly be charged in rent? No doubt that is so; still the farmers would seem to be thriving and

flourishing, and there would not be the same necessity for giving a reduction of rents as there appears to be at the present time.

2706. I dare say it would a good deal depend upon the class of Sub-Commissioners who went to look at the holdings, would it not?

No doubt it would; but I do not say that that is my view.

2707. Duke of Somerset.] With a view to the settlement of cases out of Court, I think you said it was very desirable that the Commissioners should lay down some principles of valuation; did I understand you to say that? It would certainly assist a great deal.

2708. Have you any notion upon what basis principles of valuation can be laid down?

Yes, the principles might be these: first of all, they should ascertain what is the full letting value of the holding, as it stands, with all the improvements upon it.

270y. Do you mean the competition value for letting, or the market value, or what value do you refer to?

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The full letting value, the commercial rent, some people call it. Perhaps it would not be quite fair to charge the competition value, because there is such a desire by tenants to get possession that they are inclined to give much more than the place is really worth, if put up to competition. I think it should be what would be a fair price in the market; then to deduct from that the value of the tenant's improvements, taking into account, of course, the length of time those improvements had been enjoyed.

2710. How would you value the improvements, because we are told that a tenant may build a hovel, and he may inclose his land with very small stone walls or ditches, and that the best thing for the landlord to do would be to pull down the bovel and do away with the stone walls; then are you to value them according to the tenant's notion, or according to the future value that the landlord would have to give? In a case like that, I presume, there would be no value put upon that

at all.

2711. Duke of Norfolk. You mean not with regard to what is done now? In my opinion the huildings are excluded altogether, as a rule, from valuations.

2712. Lord Brabourne.] Have you been able to detect any principles as guiding the decisions of the Sub-Commissioners?

2713. I mean you do not think that they have followed Griffith's valuation, for instance, or that there has been any other ruling principle?

The results would certainly prove almost that they have been guided a great deal by Griffith's valuation; but from the remarks of Mr. Justice O'Hagan ia his judgment in the appeal case of Adams v. Danseath, it would seem as if they deducted altogether, not only the cost of the tenant's improvements, but the full letting value that was caused by those improvements.

2714. Marquess of Salisbury.] That judgment bas been upset on appeal. bas it not? That has been upset on appeal. Of course if that were done it would take a

great slice off the landlord's rent. 2715. Lord Tyrone.] Have you any other suggestion to make which you think it would be of advantage to this Committee to know?

I think

Continued.

24th March 1882. Mr. OER.

I think it would be very desirable that the Government should lend money to landowners at 3 or 34 per cent.

716. For what purpose? For the purpose of paying off incumbraness. There are a many landlords who have now, of course, a very small margin; if that margin were cut away they would be left with nothing; whereas, if they could get money on easier terms to pay off their incumbrances, they would then have some of that margin returned to them.

2717. Do you not think it would be a much greater advantage to enable the landlords to sell their properties? I only put that as an addition to the other.

2718. Would you put it as an addition or as a suggestion if the other were not adopted ? I should give both.

2719. But would not both cost a great deal of money? I presume if the landlord horrowed in that way, he might be content not

to sell. 2720. Has it struck you that it might be very unfair to those laudlords who

have no mortgages? Certainly; that is the only objection to it, of course.

2721. Earl of Pembroke and Montgomery.] Would not the landlord, the margin of whose income was swallowed up in that way, find great difficulty in giving proper security for such a loan?

I tuink not; of course the State would see that they did not lend up to too large a margin; they might lend perhaps only half the value of the estate. Of course any remarks I make refer to the North of Ireland, where rents are pretty fairly paid.

2722. Lord Kenry.] Do you know at all what is the general view taken of the improvements executed under Board of Works' loans; can you say whether they are supposed to belong to the tenant who pays the interest, or to the landlord who mortgages his property? I think the inclination has been to give the touant the benefit of those at the

end of the period if the loan has been repaid by the tenant. Generally the tenants were charged interest on those advances in their rent, and when the loan was repuld. I think the inclination is to give the benefit to the tenant.

2729. So that the landlord has no interest in that matter?

No; but I presume that will be upset now by the decision of Adams v. Dunseath. I do not know any particular case where that has been brought forward.

2724. Marquess of Salisbury.] It was given to us in evidence that it would be some time before that decision of Adams v. Dunseath would percolate through the Suh-Commissioners' Courts and receive recognition from them in their judgment. Is that your impression?

The case is not yet determined, and will not be before Easter. 2725. The re-hearing you mean?

Yes, the re-hearing has not been determined yet, but I should think that when the figures are known, in that particular case, the rent will, I expect, be hrought up again to what it was. I think that must more or less tell very shortly. 2726. Duke of Somerzet.] Did I understand you to say that the reats in Antrim are generally pretty well paid?

2727. There is not any large amount of arrears of rent there?

There is not, generally speaking.

2728. Lord Tyrone.] Have you any other suggestion to make? I should (0.1.).

24th March 1882.] Mr. ORR. [Continued.

I aloud suggest also to facilitate the re-hearing of cases; that cases originated in the County Court should not necessarily he transferred to the Lund Commission Court, on the application of the tenant. I understand the Commissioners have held it to be annationary upon them to transfer the case on an application being made. If you have two Courts sitting like that, when cases originate in each, you will have of course two tribunals to bear them.

2729. But by the Act it is necessary that if application is made by either landlord or tenaut, the case should be moved from one Court to the other, is it not?

The Act only says "may he" moved, but I understand the Commissioners have decided that to mean "shall." I say if there is any doubt about that, the Act should be amended in that respect.

2730. If you made it not optional, would it not follow that if the tenant lodged the case in the County Court, it would be obliged to be heard there; and it the landlord wished it to be heard in the other place, he could not move it. On the other hand, if the landlord wished it to be heard in the County Court and placed it there first, the tenant could not move it?

Of course, on good cause shown, I would allow it to be transferred.

2731. Then the party who first ledged the notice in the County Court, according to your proposition, would be able to control that matter, would be not? Certainly.

2732-3. That would bring the County Court in as well as the Sub-Commis-

sioners?
Yes. I think there should also be power to treasfer cases from the Land Commission to the Country Court. Of course there is no power at present in the Act for doing so, but I think it would facilitate matters very much, owing to the block of the Land Commission Court, if a number of those cases were sent down to the Country Court.

2734. Earl of Pembroke and Montgomery.] When a County Court judge hears a case, he does not go oo to the holding, I believe, himself, but sits to Court and

sends one or two valuators on the holding, is not that so?

I have no experience of that; we have not had any case in my district.

2735. You can tell me whether a judge whose whole time is devoted to the work, would get through his work quicker than the Commissions as at present constituted do, can you not?

I do not know that he could do it quicker, but there would be the additional Court.

2736. What I mean is this, the County Court judge, it seems to me, would be able to sit nearly the whole week, while the skilled valuators were employed upon the doldings?

Yes, if you make his sittings continuous, but the County Court judge only sits

occasionally.

2737. If the Suh-Commissions were organised on the same principle, they might be able to get through their work a great deal faster than they do at

Certainly.

2748. Earl Stanhope. Do you recommend any scheme of registering improve-

present, might they not?

do not think it has been done to any great extent.

2738. Earl Stankepe.] Do you recommend any scheme of registering improvements?
Already there is a scheme for that under the 6th section of the Act of 1870;
the landford or the tonant can register their improvements in the Court, but I

2730. Lord Coryefort.] Was it not the custom for tenants to register improvements before the Act of 1870, in many cases?

No, it was never done before 1870.

2740. Earl

Mr. Onn.

2740. Earl Stanhove.] That clause is permissive and not compulsory, is

it not? It is permissive, certainly. 2741. Do you think it ought to be made compulsory in order to formulate

exactly what the tenant's improvements are?

No, I think it would be rather hard on the tenant to make it compulsory; because, of course, by inspecting the holdings, it can easily he ascertained what has been done. It would be rather hard upon the tenant if he failed to register

the improvements that he should not get credit for them : I presume that is what your Lordship means. 2742. I mean hy exactly establishing what are tenant's improvements, and what are not; if they were registered they would be really bond fide tenant's

improvements, if not registered they are merely improvements, which his witnesses declare be has made? The Act of 1870 clearly defines what improvements are; there can be no difficulty with regard to what are improvements, and what are not improve-

2743. Lord Tyrone.] With regard to the Purchase Clauses, do you think if the whole purchase-money were lent, it would be an advantage to the tenants?

Certainly. 2744. And they would be encouraged to huy?

Certainly.

24th March 1882.7

2745. Do you think there is the least likelihood of their buying if they have to advance any portion of the money?

I do not; there may he a few cases where they possess the money, but they certainly will not horrow it from outside sources.

2746. Do you consider that if the Government were to purchase the land, and the tenant's interest is defined by the new Act, that they would have a larger security than they would have had before the passing of this Act?

I do. 2747. Therefore I suppose I may infer that you think that the money advanced

would be fairly secured? I do; certainly in the northern districts of Ireland. Of course I know nothing about the south and west.

2748. Rarl of Pembroke and Montgomery.] Under the Act of 1870, are improvements valued by the cost to the tenant, or by the addition to the letting value of the holdings?

By the cost.

2740. Can a tenant claim the cost of an improvement which may make no addition to the value of the holding?

No, the court are to take into account whether the improvement is suitable to the holding; then, in addition, must take into account the length of time the improvement has been enjoyed.

2750. That only applies to improvements made before the Act of 1870? Certainly. There are one or two other points which, with your Lordships' permission, I might suggest.

2751. Chairman.] What are they?

I think with regard to coats, it is very unfair to a tenant for life that he should have to pay them. Take such a case as Lord O'Nelli's, with two or three thousand tenants; if all those came into Conrt, it is ohvious what an enormous expense there would be. I think there should be some provision for charging that on the inheritance.

2752. Duke of Somerset.] Charging it on the estate, you mean?

Yes. 2753. Chairman.] The tenant for life represents the estate, and has to hear the cost ? KK2 (0.1.)

It is very hard that he should bave to pay that out of his income. I also would suggest, that in the originating notice the tenant should specify the

improvements be claims credit for; giving the dates at which those improvements were made.

2754. In the same way that was done under the Act of 1870, do you mean?

In the same way that was done under the Act of 1870. Of course, at present, those particulars con be got by giving notice, but it would facilitate matters if they were given originally, with the originating notice.

2755. Marquess of Salisbury.] Would that be a very onerous duty to place upon the tenant?

No, because under the Act of 1870, they had to do the same thing.

2756. There is an impression on the part of some witnesses, that it would give to the tenant so much trouble, and cost bim so much money, that it would be a practicol decial of the Land Court to bim?

I do not agree with that, because by serving notice you can get the particulars now, therefore why not give them at the ourset.

2757. Duke of Norfolk.] Are they always given according to your experience when the notice is served to which you refer?

By serving notice, it is mandatory now to give particulars. At first there was a little difficulty about it, I believe.

2758. Duke of Somerset.] Are the boldings in Antrim generally small? Yes, as a rule they are small holdings. I should think 20 acres would be the

ros, as a rule they are some nothings. I should take 20 series would be the average of the farms in the north of Ireland.

2759. Do you find that practically many improvements are made by those

tenants? Since 1870 there is no doubt there have been considerable improvements made.

2760. But before that time was it so?

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Before 1870 the improvements were almost nil, in my opinion.

2761. Then the Act of 1870 was so far good that it tended to make the tonants improve?

Yes, I think one may fairly say so.

2762. Earl of Pembroke and Montgomery.] But it put a stop to landlords' improvements, did it not?

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Tuesday next, at Twelve o'clock.

Die Martis, 28° Martii, 1889.

LORDS PRESENT:

Duke of Nortolk.

Duke of Somerset.

Duke of Somerset.

Macquee of Saltsburt.

Macquee of Saltsburt.

Lord Tyrder.

Lord Cateron.

Lord Tyrder.

Lord Kentl.

Lord Kentl.

Lord Kentl.

Lord Kentl.

Lord Mandours.

Lord Kentl.

THE EARL CAIRNS, IN THE CHAIR.

MR. JOHN WILLIAM SCOTT, is called in; and Examined, as follows:

2763. Duke of Somerzet. You have, I believe, been engaged in the management of land in Ireland for many years?

I have.

2764. For about how many years?
For about 30 years I have been in business there.

2765. Has your experience extended to different parts of Ireland, or has it

been confined to any particular part?

The south and west principally; Cork and Clare and Limerick, and as far north as Meath, but not further north.

2765. You have been engaged in connection with various properties, have you not?

Yes, until the last eight years I was in general business. I was the agent of Lord Midleton's estate for many years. During the last eight years I have been the agent of Lord Leconfield; I only hold one other agency in the county of Mesath.

2767. In what counties are the estates of Lord Leconfield situated?

Lord Leconfield's properties are in Clare and Limerick; he has also a small

portion of property in Tipperary; the other property is in Meath. I was for more than 20 years connected with Cork. 2768. Are the holdings in Clare and Limerick small, or are they average

holdings?
They vary. There are some large holdings, but there are a very considerable number of small ones. Some of the Limerick holdings are large ones; many of the Clare holdings are very small, though not so small as they are in the

county of Galway and Mayo.

2769. Viscount Hutchinson. What is the average size of the holdings?

I should think the average would be about 40 to 50 acres.

2770. Are they what we call "40 acre men"?

Yes, but that is really very little criterion as to parts of Clare, where they have large runs of grazing land for young stock; they do not know themselves (0.1.) $K \times 3$

28th March 1882.] Mr. Scott. [Continued.

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how many acres they have, and they are not paying perhaps more than about half-a-crown an acre fur it.

2771. It is mountain land, you mean?
Mountain land and craig land, though we have not very much of the craig land.

there.

2772. Duke of Somerset.] Have the rents generally been paid latterly?

For the last two years there has been a difficulty shout the roots; but up to hat time I may set there were no arrears at all, that is up to 1879. When I took over the agency there was only one man returned in arrear up to the time the account was closed, and the arrears did not instirally increase, or at dispose of by striking off their arreas. Of course since 1879 very considerable arrears have accorded.

2773. Are the arrears chiefly on the small holdings?

No, I could not say that. I think I may say that all of them have fallen back half a year in arrear.

2774. Viscouot Hutchinson.] Do you mean that they uwe half a year's rent, or a year and a half's rent?

I have just made up my account for the March rents 1881, and there is something over half a year's rent due on the whole estate.

2775. Up to March 1881? I was supposed to close the account on the 1st January 1882 for the March rents, and there was about half a year's rent due then.

2776. Marquess of Salisbury.] You mean to say there was money owing which ought to have been paid in October 1881, and which has not yet been paid?

Exactly.

2777. Marquess of Abercorn.] Have you a hanging gale?

Yes', we do not admit it, but there practically is a hanging gale.

27.98. Lord Tyrone.] The renta were paid punctually up to the last two years,

1 understand you to say?

Up to 1879.

2779. Do you consider that the arrear has arisen through the bad years or through the agiration that has been going on in the country?

Through the agitation. There have been a certain outsher of the teanats who have been able to pay their rent through book accommodation and so on; but I think that few of Lord Loconfield's tenants, comparatively speaking, were so far gone that they could not pay; great numbers of them have the money now, and are willing and anxions to pay if they were allowed to do so.

2780. Duke of Somerset.] Do you mean that they are intimidated?
Yes, but there is alsu a great deal of scheming out to pay it, thinking they
will get an abatement by the delay, and they are waiting to get an abatement.

2781. Lord Leconfield's property we have heard is managed very much on the English system; is that so? As far as practicable it is.

As in an processor it is.

2782. Is the building on the estate done by the landlord generally?

In the case of Lord Leconfield's Estate, he wished to erect all the buildings; be
preferred to do it himself. If any transt wanted buildings erected or drains gedone,
Lord Leconfield was prepared to do it for him, and did do it, charging interest
according to circumstances; but of course there were a very large number of the

2783. Marquess of Salisbury.] And who did their own buildings? They did some; but very little has been done during the last 20 or 30 years except what was done by the landlod.

2784. Duke

tenants who did not avail themselves of it.

28th March 1882.] Mr. Scott. [Continued.

2784. Duke of Somerset.] The improvements on the estate have been small have they?
They have been very trifling since about the year 1848 or 1850, when the late Lord Leconfield commenced making improvements; but there is no doubt

late Lord Leconfield commerced making Improvements; but there is no doubt that a great many old reins and locuse will turn up as tenant's improvements, and as to which we knew nothing, when they come to bring their case into Court for the fair results it is because, concerning the state of the drains, and court for the fair case is the concerning the state of the drains, and way of per-centage upon the outley, he will naturally do it himself, rest in the way of per-centage upon the outley, he will naturally do it himself, rest in the 2785. Viscount Hactschissen! You have ind some case inforce the Court. I

Yes, I have just had 10 cases.

Yes, I have just had to cases.

2786. With regard to the point which you have raised as to the tenant all of a sudden discovering in certain cases that he has exected buildings or made drains, you are never aware of what he claims a reduction of rent upon until you actually come into Court, are you?

netually come into Court, are you?

No. It so happened in these cases that they all showed them to me when I went there. I am on very good terms with the tenants, and they made no encealments of them; but if they had not pointed them out to me I would have been in a very great difficulty; and other persons complain very much indeed of that state of things.

2787. I suppose this knowledge comes to you entirely from the tenant's own

free will?

Entirely; as soon as I have known that a case was coming on I have always gone ou the lands myself just to see what the tenants claimed; I have then asked what improvements they have made, and they have shown them to me without

any hesitation.

2788. Have you ever gone through your solicitor and asked for particulars?

I have iostracted my solicitor in two or three cases where I was not certain that the same facilities would be given me to serve protoe on the teams.

2789. But that does not oblige the tenant to give them, does it?

Certainly not; you can apply to the Court, I believe, to get an order for particulars, but that you do with great trouble and expense; and that is a very great defect in the Act.

2700. Lord Brabourse.] Were there large improvements that you are speaking

of in this particular case?

No, not very large.

2791. Have they been adjudicated upon? Yes, the fair rent was fixed in those cases.

2792. Was a large allowance made for the improvements?

No, there was nothing extraordinary for what they proved; they were not of any very great amount. 2703. Viscount Hutchinson. Do you mean that a large allowance was made

2793. Viscount Hutchinson.] Do you mean that a large allowance was made to the tenants?

Not for the value of the improvements; the Commissioners admitted a certain set of improvements made by the tenanta, and, I presume, deducted the value of

them out of the rent they fixed.

2794. How are you able to ascertain that?

I have no means of ascertaining it, and there ought to be a record of it.

2705. Lord Brabourne. At all events, you do not complain of the improve-

ments in that particular instance; they were bond fide improvements?

Those that the tenants proved or deposed to were bond fide improvements; it was simply a question of amount.

2796. Still after that you do not at all know what ground was taken, if any iodeed, in respect of those improvements, in fixing the rent, do you?

(0.1.) $\times \times 4$ The

The Commissioners took an occount of them in their own private note books; I went over the farms with them when they were reviewing them and valuing them, and they referred to each of those cases, and said you claim so much for

them, and they referred to each of those cases, and said you claim so much for such-and-such drains, and the tennuls pointed them out to us. 2707. But in giving their judgments they did not give any indication of the effect which those improvements bad upon their minds?

I was not in Court when they gave their judgments, but I understand they did not.

2798. Duke of Somerset.] Have you had many cases before the Sub-Commissioners?
As yet 1 have only had these 10 cases, which were all tried together.

As yet I have only had these 10 cases, which were all tried together.

2799. Have you had any cases before the county court?

No, there have been none tried by the county court judges in Limerick or Clare, so far as I know.

2800. Earl of Pembroke and Montgomery.] How is it that these cases did not come under the English Estates Clause?

There is only one of them in respect of which we could claim it; that was one in which Lord Levendedial had made the improvement. It is right to my content in the respect to the respect

2801. Do you think that that clause in the Act will keep any of Lord Leconfield's tenants out of Court?

Yes, I hope so; I am not a lawyer, but I think if it is effective in any case it will be in what is called the model farms. Lord Leconfield and his father in the years 1848 and 1852 formed some large model farms; those are instructive farms, consisting of complete sets of farm buildings; they were drained and femeed, and let as in the cose of an English tream.

2802. Duke of Somerset.] You had 10 cases, as I understood you, before the Court; have you settled any cases out of Court?

No. I have not. The tenonts are most survious that I should, but I do not

know how to approach that matter. Of course the tenants will not settle with me unless they get very good terms, and I do not know on what principle to go. I have always said I could not tell what a fair rent is, nor can I instruct anyone upon the subject.

2803. You do not know upon what principle to go in order to settle out of Court?

Not in the least; I have nothing to guide me in anyway.

2804. Have not those cases that the Suh-Commissioners have decided enabled you to form any opinion?

Not the least. I ammore at sea than ever; from the decisions they have given, I cannot form the least idea. They have reduced all those rents, some of which were, to my mind, extremely moderate; they have made small reductions, hringing some of them down below Griffith's valuation.

2805. Lord Brabowne.] Have you appealed, or is it the tenant who has appealed in those cases?
We have appealed.

2806. In all the 10 cases? In all the 10 cases.

2807. Duka

Continued.

2807. Duke of Somerset.] In England the landowners have had to reduce their rents considerably; do you consider that the rents have been reduced more in proportion in lighted of Lord Laconfold?

their rents considerably; do you consider that the rents have been reduced more in proportion in Ireland, on Lord Leconfield's property, for instance ? I do not think the cases in Eugland and Ireland are exactly similar. Lands in England are generally let on a regular scale; the whole of an estate would

in Edginst are generally let on a require scale; the whole of an estate sound in Co. Lord Leconditive state on the land and the scale of the land and some considerably help of the land some considerably help of the land some considerably help of the land to the land to the land some special dramamances the result since been, not accessive, but higher than the from the middleman. In the land the l

years the same?

The most of those were cases where there was a lease surrendered by the

middlemen in 1847, and he had to take over the sub-tenants until the termination of the lease in 1852. Then there were large reductions made in the rents, and they have been unchanged since then, except where Lord Leconfield may have spent some money on improvements, and then something was charged for them.

2809. They have been unchanged for about 30 years?
Yes; and paid with the most scrupulous punctuality. I prepared a paper in

each case for the Sub-Commissioners for the eight years, since I became agent, aboving bow the rents were paid; they were paid in June and December with great regularity. This mas whose case I have before me paid the fixed rent, without a single exception, until June 1880. In the year 1880 he dropped a balf year and paid twice in the year 1880 he of the year 1881 on two different days; the rent was paid without difficulty, and that was the highest rent of all.

2810. Lord Tyrone.] You had experience of the management of land in England before you went to Ireland, I believe?
Yes, I managed Lord Midleton's estates in England and Ireland for 20

years or more.

2811. What would be your idea with reference to the comparative lettings of

lend in England and Ireland; would you consider land in Ireland let a good deal below the average of land in England?

Very much, I should say the average was very considerably less; certainly

as regards Lord Leconfield's estate, which is what I am referring to. In England lands are let at a valuation of what a competent experienced professional mansid the lands were worth. In Ireland some of Lord Leconfield's lands would essily have fetched 50 per cent. more than he was charging at a competition rent.

2812. Marquess of Soliderry.] Did you have any opportunity of comparing the lettings with the decisions of the Commissioners in case applicable to other farms in the neighbourhood, or did you observe any tendency to reduce, midiscriminately, without reference to the question whether they were high or low let?

I could not exactly answer that question, but if I may judge by the reports in

the paper, the rack-renting landlords come off hetter than the moderate chargers.

2813. You would draw that inference from what you saw in the papers, hut

2013. 100 would draw that interested from what you are no personal experience to support it?

I could not say that I have.

2814. Lord Tyrone.] You would suppose that the tenants on Lord Leconfield's estate would not feel the agricultural depression so much as tenants on an English exite, if I rightly understand your answer?

Certainly not; nor do ! Ithink, except in 1878 and 1879, that they had a cause for it; for! consider that 1880 and 1881 were very good years, and as far as I can understand, they were very bad years in many parts of England; 1880 and 1881 were not toal years in Ireland. There was a great dead of grass in 1881, but it had not the feeding properties which it should have had; but I (0.1.1)

28th March 1852.] Mr. Scovr. [Continued.

do not consider that either 1880 or 1881 were bad years; 1878 and 1879 were much worse.

2815. Marquess of Salisbury.] Does that apply to the whole of Ireland, or merely to a part?

To the part that I have had experience of.

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2816. Lord Tyrone.] What sort of per-centage would the reductions which were made on this (what is called moderately rented) estate by the Sub-Commissioners represent?

Commissioners represent?

The reduction that was made was about 17 per cent, I think. The old rest that existed in 1869 was reduced to 461 L, which is about 17 per cent; and the Sah-Commissioners left them about 20 per cent, over Griffith's valuation.

2817 Did you employ a valuator? We employed a Mr. Cox.

2818. And did he value the estate at the present rental?

The present rental was 569 l. 2 s. 1 d.; his valuation was 535 l. 9 s. 9 d.

281g. Therefore his value was a little below the present rent:

Ahout 35 L below the old rental.

2820. What is your idea as to that valuation; is it in accordance with the

valuation you would have put upon the same property? Wes, I think so. I did not quite agree with him in some of his figures. I think in one of two places I should have been almost inclined to put them a little lower than he ind. I think his valuation was about a fair one. There were have force a little medical in the control of the little place in the little place in the little place that is a little place in the little place in the little place in the little place is a little place in the little place in the little place in the little place in the little place is a little place in the little place

2821. Is it not most difficult for Irish landlords to get valuators at present? It is impossible almost. The experienced and good men are so much engaged that it is almost impossible to get them, or at all events, it is very difficult.

2822. Has it not been the case that almost a new standard of valuation has been set up by these decisions of the Sub-Commissioners?

There were very few professional valuers in Ireland up to the last is months; and the men who are now valuing sever made valuations before. They may be very good farmers, and completed men perhaps, if they had experience, but value to not wither our extraint value of the value of value of the value of t

2823. Therefore you think the valuators, as a rule, are valuing below what would have been the fair letting value hefore the Act was passed? I think they are, and I think they argue that the old rents will not stand.

2824. Have yon ever heard valuers state that it was better for them to put on a value as nearly as possible approaching what the Sub-Commissioners were likely to accept?

No; I have not heard them state anything of that sort.

2825. Is it your opinion that that is passing through their minds? I think losensibly that it is passing through their minds, and that they are trying to arrive, as near as they can, to what will be considered a fair rent.

2826. Chairman.] Do you mean that the decisions of the Sub-Commissioners are practically introducing a new standard of value?

2827. Earl

2827. Earl of Pembroke and Montgomery.] I should like to ask you a question with regard to the valuation you spoke of just now, which was made on your own estate; you said that the valuation made by your own valuer was below those existing rents?

2828. Yet you told us a little while before that the existing rents you thought were lou?

I was speaking of the estate in general, but out of the ten I should say that about six of those rents that came before the Court were very moderate, and should not have been altered at all.

2829. In those cases in which the valuation was below the existing rent, you think the rents were high, as I understand you?

There were two or three of those cases, I think, where the rents were high, though they were not so high as other landlords in the county were charging;

but they were high as compared with the average on Lord Leconfield's estate. 2840. Lord Tyrone. What class of valuers do the tenants produce?

They are not valuers at all; every man had two separate witnesses, and I think that we had only the same men up on two or three occasions; they were mere working farmers, with the exception of three who were gentlemen farmers in the neighbourhood; they were none of them professional men.

2831. Lord Brabourne.] But they were men who farmed in that same neighbourhood themselves?

Yes, most of them were perfectly ignorant.

2832. Lord Tyrone.] Were they men of the class who were likely to have cases before the Court themselves ?

Nearly every one of them admitted that they had cases; they were all men sailing in the same boat, and one of the gentlemen who came up was a tenant of Lord Lecondeld's, on the adjoining land, who had served me with notices to fix fair rents; however, he said when our counsel asked him the question, that he did not intend to go on with them; he told me afterwards that it would not suit him to go on with them.

2833. With regard to what you said about a record heing kept, I suppose you think that that would be of great advantage at the end of the first statutory

term ? I think it would be absolutely necessary that there should be some record as to what basis the rent now has been fixed upon for 15 years hence; the improvements that have been now taken into account, may be taken into account again; we have no means of preventing it, unless there is a record kept in

the office, which may be referred to. 2834. If there was a change of tenancy and a change of agency, nobody would know in what position they were placed, would they?

No.: or if there was a change of owners; there is no record of what has been taken into the calculation.

2835. You look upon the record as absolutely necessary? I look upon it as absolutely necessary, unless there is to be great injustice

done, or an opening created for great injustice at the end of 15 years. 2836. Do you think that having no record kept might act against the tenant,

as well as against the landlord? Of course it might; but I think it is more likely to act against the landlord, hecause the tenant will remember what he has done in the time, and the landlurd will hardly he shle to prove that buildings or drainage, that the tenant

states he did subsequent to the fixing of the rent now, were done hefore. 2837. But if there were a change of tenancy, would there not be some

Of course that might be so, hut that is not very probable; the tenant will have neighbours or others from whom he will be able to get the necessary

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2838. Marquess

evidence.

28th March 1882.] Mr. Scott. [Continued,

2838. Marquess of Salisbury.] It would depend a great deal upon who were the Sub-Commissioners at that time, would it not?

the Sub-Commissioners at that time, would it not? I think it would, but I do not think the tenants will have any difficulty io getting evidence to show that within the 15 years the work has been done; there will be labourers, or somebody or other to assist them.

2839. But as it is a matter of pure chance who will be the Sub-Commissioners
15 years hence, it may tell against the tenant as well as against the handlord to
have any essential part of the case made purely a matter of estimate on the part
the Sub-Commissioner instead of its house waster of second way it now

nave any essential part of the case made purely a matter of esculate on the part of the Sub-Commissioner, instead of its being a matter of record, may it not?

Of course that may be the result of not laving it; I do not see how it could act unfairly by anybody if it could be obtained. I consider it is of more importance to the landlord, and it may be a benefit to the tenant; it cannot be

any injury to bim.

2840. Lord Tyrone.] With regard to the reasons being given for the decisions,

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do you think that there would be a likelihood of a large number of settlements being made out of Court, if you had some ground to go upon?

being made out of Court, it you had some ground to go upon?

I think there would be more likelihood. Several tenants bave asked me to settle, and I said, I really could not do it, because I could not give any instructions to a valuer; I could not send a competent valuer to value the land, for I did not know what the Sub-Commissioners might fix as a fair rent, and I might

be doing a great injustice to him, or a great injustice to the landlord, if I went into a valuation under such circumstances.

284.1. My question is more with regard to estates generally throughout your district, or throughout the South of Ireland, than with regard to Lord Lecon-

district, or arroughout the count of regards, that with regards to Lord Accoufield's estate, because I understand from your evidence that you think that you have a particularly good case in Lord Leconfield's estate? I think a much smaller number of temants will bring me into Court there than

on the neighbouring properties.

2842. Therefore, with regard to the neighbouring properties, do you not think

that if there were some knowledge gained by the reasons of the decisions being given, there would be many settlements out of Court? There would be more likely to be settlements, I think, and fairer settlements.

2843. And, of course, that would be a great element in doing away with the block at present in the Land Courts, would it not?

Anything that would lend to facilitate the settlement of cases would, of course, relieve the block.

2844. Is not fighting the cases before the Court very expensive, both to

2044. Is not againing the cases before the Court very expensive, both to landlered and tenant?

Not to the tenant.

Not to the tenant, 2845. It costs the tenant a certain amount of money, does it not? It costs thin very little. In the first place, I think the general rule is that

attories that the case up for about two guiness each; that is, the more respectable class of attories; one guines is paid down when they are first instruct, and a guines when the case is coming late Court. Something of that set is the case; and they pure bothing for when. The Court is current do their own cases; and they pure outling for waters. The Court is current do their own witnesses; and they are not even obliged to furnish a list of their claims which might pat them to the exprance perhaps, if employing a surveyor, or some exclusion than the contract of the court of the court

2846. What sort of an expense do you consider it is to the landlord? From about 10 L to 15 L, a case.

2847. And in cases of adjournment, I suppose, it would be more?
In those cases it would be still more, and that is a very great hardship for a unfortunate landlord who has not had his rent paid, and has not got any ready money. If he has a hundred, or a hundred and fifty cases to contest, at

an expense, in each case, of 5 l., 10 L, or 15 L of hard money that he must find, he cannot do it, and he is at the mercy of his tenants.

2848. Those are the smaller landlords, I suppose? The smaller landlords or the embarrassed landlords,

2849. You consider that to the smaller landlords it would be ruin, do you? It will be very little short of it; they will be obliged to give way to the terms

of the tennis. More than one have spoken to one about it, and said, "What can be do? It is better for us to sabmit to a heavy reduction now, than to go to this expense and have this quarrielling with the tennite, perhaps if we make an arrangement with them now, we may then get some money, which we cannot do at present."

2850. Earl Stankope.] Therefore settlements nut of Court would be rather a compulsory expedient? In the case of most of the landlords who are doing it, it is compulsory; that is

my experience.

2851. Chairman.] In the case of a landlord who is tenant for life, does that

expenditure of which you speak fall upon his life interest?

I presume it must; there would be no mesns of charging it upon the succession,

2852. The result may be that he would have to pay all the expense one year and not live to enjoy the rent?

I do not see how he could transfer it to his successor.

I do not see how be could transfer it to his successor. 2853. Lord Tyrone.] As regards the valuation, do you think that a good way of arriving at a fair rent of a farm is to calculate the produce, and thou to put a

certain portion by for the rent, and a certain portion for the labour, and a certain portion for the tenant?

I suppose if you go critically into a valuation, that is the way it must be arrived at. You would not go into

farms you must take it by the quantity of stock, and the profit made out of the stock. 2854. In your experience, do you think the Sub-Commissioners take that

mode of valuing into consideration?

I think they do. The fault I find is with the scale the Commissioners adopt; that is what I complain of.

28,55. Since the passing of the Act have you noticed any change in the condition of the County Clare that you reside in?

We have been much worse off in Clare since the passing of the Act.

2856. In what way?

In the way of more difficulty in collecting rests; there has been much more difficulty in Clare. It is very coincide that opposition to the payment on the payment on the payment on the payment on the payment of rests extende over a certain rare for a time, and then it seems as thought it passed away from one district to souther district. It could get nothing at all in Limerick about this time last year, and till last Speember; they would not pay many thing. If of these solors, and state in Limerick; a not in Clare they were paying me all last year, mult the Act did pass, and small about the last fortnight or three works I could get nothing from them, or comparatively nothing.

2857. Have you had to take proceedings against the tenants?

28;8. Up to the passing of the Acts did you take any proceedings? Except an occasiodal ejectment for non-payment of rent, which led to a settlement in some way or other, I did not; I never proceeded for rent as a debt until within the last few months.

2859. What effect have these reductions had upon the people in the country as regards paying their other debts?
As far as I can ascertain from the shopkeepers and from many of the bankers,

(0.1.) L L 3

Continued 28th March 1882.] Mr. Scorr.

I do not know that they have been applying the money they have kept from the landlords to paying their other debts.

2860. Viscount Hutchinson, What have they done with it?

They have kept the money, generally speaking. If the sheriff comes to the house there is money in the house generally.

2861. Chairman.] Where do they put the money? They perhaps keep it in notes, or in various ways and places; or they will put it into a bank and take a deposit receipt.

2862. Marquess of Salisbury. They have not spent it in drink, or anything of that kind, you think?

I cannot say that they have. Some of the poorer men have spent the monics and some have paid their debts, but I do not say that it has been generally so applied. Out in the west of Clare, I think some of the tenants have got more stock than they had before. I think, when they were not going to pay their

rents, some of them did not sell their stock. 2863. Chairmon.] But if they had stock on the farms, that would be available,

would it not? Yes.

2864. And if they had the money on deposit receipts, that would also be available, would it not? It would be available when seized, or when they were inclined to pay.

of the tenants have come to me and told me where the money was, and said, "You need not be afraid, here it is; it is all safe for you;" they have even shown me the deposit receipt, and said, " It is safe for you when the time comes."

2865. Have you made any seizures of stock? A good many.

2866. With success?

enforced?

Not in all cases, but very nearly, but then I selected my cases very carefully.

2867. Have the landlords adjoining you seized stock? Some of them have. We have all proceeded in different ways. Some have

seized stock, some have served writs, and some have tried ejectments. 2868. Has it not been the case in some instances when seizure has been

attempted to be made of the stock, that it has been driven away and could not

There have been a great many cases of that kind, and we have to look out for that. In my cases the sheriff went out during the night, and as soon as day broke he seized the stock in the yard while the cattle were in the houses and hefore they were up. Of course, if once it had once got out that he and his men were there, the cattle would have been off the lands.

2869. Marquess of Salisbury.] Has the sheriff habitually to pass his nights in going to larms?

He has in Clare. That is the way he has been spending his winter. He has often been out two or three nights a week. 2870. Lord Timene.] With regard to labourers' cottages, have any orders

been given to give cottages to lahourers on farms in Clare? I think in some of the cases they have, and in two of those cases of Lord Leconfield's that were tried, they decided that labourers' cottages should be

2871. What was the result of that order?

I do not know what the result will be; that order was only given the other day, and I do not know how it is be enforced. 2872. Is there any arrangement under the Act as to how that order can be.

I have looked into the Act, very closely and do not see who is to put it in

28/h March 1882.]	Mr. Scott.	[Continued.
notion, unless the (Commissioners who have a record of it.	send somebody down

2873. Chairman.] You mean to see that the order is executed?

Or the way in which it is done. Of course if they borrow money from the Board of Works, the Poard of Works will see that a proper house is huilt. 2874. Viscount Hutchinson.] Is there any means of compelling the tenant to

carry out the order of the Sub-Commissioners in the matter? I am not aware of any; I suppose it would be done by an injunction.

2875. Who is to apply for the injunction ? That I do not know.

2876. Is the labourer to do it?

I do not see how the labourer is to do it; it is not intended for individual labour but for labour in the district, and when some tenant has objected to putting up the labourers' cottages, the Commissioners have said it is not necessary for a labourer for your farm, but there ought to be labourers' cottages, and your farm is a suitable one to have a house upon.

2877. Chairman.] It the labourer made any objection there is nothing to prevent him from being dismissed, is there? Certainly not; nor to render it necessary that the farmer should give him any

employment. They simply define that there is to be a house of certain dimensions, and that certain rent is to be charged for it.

2878. Lord Tyrone.] Did any of the Sub-Commissioners make that statement that you have just alluded to, that it should be for the labour of the country. and not that of the particular form?

I have read that in the paper.

2879. It did not happen on Lord Leconfield's estate, did it?

No. I could not say that it did. I think something of the wore happened in a funous case on the Gascoigne Estate, near Killmallock. Mr. Clery objected altogether, and said be did not want them, and the Commissioners, as well as my recollection serves me, said the labourers were wanted in the country, and that as he had a large farm he ought to have some labourers' cuttages on it 2880. Lord Brabourne.] I suppose no particular labourer, or particular body

of labourers, could apply, because they could not say that they were particularly aggrieved ? No.

2881. It could only be done in the interest of the whole class?

I presume the only persons to move in it would be the Commissioners themselves. The only way to do it that I can see would be through the board of guardians, and I think that it should be put upon them to see the order carried

2882. Duke of Somerset. Do you consider the accommodation for labourers

on Lord Leconfield's estate to be sufficient generally?

I may say there is very little requirement for labourers; their own families are able to do the work. I do not consider that on Lord Leconfield's estate there is need for more labourers' cottages than exist at present. An individual place may be in want or one or two places, but I have never found any such want.

2883. Having had the management of the estate for some time, and looking to the size of the holdings, do you think it would be for the benefit of the country to increase the size of the holdings?

In some cases it is. There are some holdings in the west of Clare that are very small; but the farms were, as far as could he, consolidated about 1862. There is no very crying grievance of that sort on Lord Leconfield's estate. I should like to consolidate a little more, but still it is nothing very serious.

2884. Viscount Hutchinson.] Before leaving the question of labourers, i (0.1.)

suppose we may take it from you, as a broad statement, that the employers of latiour in the south and west of Ireland are not the farmers?

They do not employ any labourers,

288s. Is it not the fact that the labourers generally employed by the landlords.

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ns in Lord Leconfield's case, are usually provided with cottages by them?

Exactly; that is my experience. If it is a grazing farm, or principally n grazing farm, there is no labour wanted but that of the families; the children can look after the heifers.

2886. Lord Brahowrne. What is the average size of the arable holdings? That would be principally in Limerick. I should think shout 50 to 60 acres.

2887. Is a man able to perform the labour upon that with his own family? There would be a great deal of it in grass.

2888. Viscount Hutchinson.] Does that system of employing labour exist in Clare, which I know personally exists in parts of the south of Ireland, that the

labourer lives in the house and does not get anything very much in the way of wages, and is treated more or less like oue of the family? They have all got what they call their servant hoys and servant girls. The work is done in that way, and the labourer sleeps in a loft, or anywhere outside.

They keep one or two servant boys, but they hardly consider them labourers. 288q. But I suppose they do assist in the working of the farm?

They do, if the farmers have not grown-up sons and daughters in the house. 2800. Lord Tyrone.] They are labourers, are they not?

They are. 2891. Is not the difference between them that the one class is married, and

the other is not? The unmarried ones do not want houses.

2802. But on Lord Leconfield's estate they have these servant boys and servent girls to assist in the farms? They all have, I believe.

2803. But they have not married labourers in the house, have they? Not on medium sized farms.

2894. Viscount Hutchinson.] With regard to cottnges, I think you said that if the tenant were about to build a lahourer's cottage, and applied to the Board of Works for the money, the Board of Works would see that a proper cottage

was built? I presume they would, because they would require to see that their money had been properly expended.

2805. But the Board of Works will not advance less than 100 /., will they? I believe not less than 100 l. to any one applicant, but it need not necessarily

go upon one house. 2896. Will they sanction the building of a cottage that would cost less than 100 L, according to their plans and estimates?

I think they will hardly get one single cottage built for less than 100 l., according to their plans and estimates,

2897. The tenant will be very glad to build it as cheaply as possible, would he not?

The tenant would not like to spend more than 30 L or 40 L upon a house; 40 l., they consider, will build a house good enough for any labourer; and the Board of Works, unless they change their system altogether, would not sanction a house of that class.

2898. If there was a possibility of enforcing this order, or if it ever came to be enforced, it would be quite in their power, under the Act, to put up one of those wretched cabins you see all over Ireland, would it not? I saw houses built in 24 hours by the Land Lergue, and they will be considered good enough for any labourer.

2800. Lord

[Continued.

SELECT COMMITTEE ON LAND LAW (IRELAND). 28th March 1882.7 2800. Lord Turone.] Is there snything provided under the Act to enforce

the house being a good one? Nothing whatever. 2000. The rest is fixed, and the amount of land is fixed, but is there any-

thing about the house fixed? The dimensions of the house are generally fixed. It must be so many feet in length, and so many feet in breadth, and must be slated.

2901. Is it to be slated? Yes.

2002. Viscount Hutchinson.] Is that done by the Sub-Commissioners? I have read that in the newspapers.

2903. Marquess of Salisbury.] What would happen if it were not slated? If the Commissioners desired it to be slated and it was not done, and their attention was called to it, I do not know how they would proceed.

2904. Lord Tyrone.] In your opinion, there is nothing to prevent mud walls being built by the orders of the Sub-Commissioners?

I do not see that there is any power to make a man build a house at all; and if there is no power to make him build, I do not see what is to prevent him building it with mud as well as stone.

2005. Marquess of Salisbury. I suppose the Commissioners might send him to prison for contempt?

I suppose they might, but that is all they could do.

2406. Lord Tyrone.] Then necording to your evidence the clauses about labourers' cottages are at present a dead letter? I do not see how they are to be enforced, and if they cannot be enforced, as the tenants do not wish for it, they must be a dead letter.

2407. Viscount Hutchinson. I suppose your holdings are too large for you to have had any experience of the working of the arrears clause?

I have had none at all. One gentleman wrote to me who was wanting to make such an arrangement in the west of Clare; I only heard of one who was thinking of it, and I do not helieve he carried it out.

2008. We have it in evidence that a certain number of applications were made; have none come under your own notice? None at all, nor have I heard of anyone, except the one person I refer to, who

ever had it in his miod. 2909. Lord Tyrone.] What is your view as to the purchase clauses of the

Act; do you think that they are workable as they exist at present? I do not see how they can work as they stand at present. There seems to be not the slighest disposition to act upon them. I have not heard of a single tenant who has contemplated a purchase under them except one, who is a large landed proprietor himself, and one of the principal toen in Limerick, who holds a form inside his own demesne from Lord Leconfield; he applied to purchase, but he is the only person I have heard of wishing even to

2910. What is the reason that the tenants do not avail themselves of those

clauses? In the first place, I do not think they ever were anxious to do anything of the sort; I think they would sooner have their present laodlords than the Government as their landlords; and secondly, I think they are waiting until they can crush down the rents, because the lower they reduce the rents the more

favourable the terms of parchase will be. 2911. Do you think, even after the judicial rents are fixed, that the tenants are likely to purchase, uoless they get some further advantages than those offered by the Act? Unless they can purchase on more favourable terms, such as terminable annuities, at less than their existing rents, I do not think they will have any Ma

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(0.1.)

anxiety

Continued.

arrears

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anxiety to purchase. I do not think they look forward 35 years to getting their lands into their own hands, and they know perfectly well that the Covernment instalments must be paid punctually, and that if they lose stock or have a had time, they have only got to go and ask for a month or two, and that that will be considered by their landlords, and that they will perhaps get an allowance if they have met with a serious loss, whereas they know perfectly well that they will not have that consideration from the Board of Works. Unless the terminable annuity is less than the existing rent, I do not think there will be any great disnosition on the part of the tenants to nurchase

2912. Chairman.] Do you mean although the existing rent he a judicial rent. reduced from what it was before?

I think they will sooner stick to the landlord. I think they will like to try the landlord first, to see wirether they can get on with him hefore they let the Government he their landlord. That is my expectation, but there is no talk about it at all amonest the tenants.

2913. Is there any general buying and selling of laud in the market in your neighbourhood now? No; the land is absolutely unsaleable.

2014. Is there any having and seiling of the tenants' interest ? Yes, they are beginning to move in that way very much, I have had two or

three cases of it myself; I have one case this very morning, and at a very high rate.

2015. Marquess of Salisbury.] Is it done with your consent? We shall give consent in all these cases, and we must give consent, because we can make no valid objection to the purchaser.

2016. Chairman.] Did the instance you speak of occur on Lord Leconfield's property?

I am speaking of Lord Leconfield's property.

2017. Marquess of Salisbury.] But is not his an English managed estate, and that, therefore, you are not bound to give consent? I think your Lordship will find it is not an English managed estate, but an

English managed holding that that applies to. 2918. And the holdings are not English managed r

No, these are not. 2019. Viscount Hutchinson.] It is still sub judice as to what au English managed estate actually is, is it not?

I hat is so at present. 2920. Lord Tyrone.] From a previous answer of yours, I understood that

tenant-right always existed upon Lord Leconfield's estate, or some portion of it; is that so? No, not at all. There were a certain number of cases where, with permission,

the tenant being approved of, they allowed the sale; but since f became agent there has not been a single case of selling an interest, 2921. I refer to that case you mentioned of the tenant who purchased from

another tenant, and then had a house erected on his property? Yes, that was done hefore I became agent. There were a certain number of

cases where the tenants either sold without the agent's knowledge, and they were afterwards recognised, or where they came and got leave, the purchaser heing approved by the landlord, but for the last eight years there has not been a single case allowed. Lord Leconfield, sooner than allow that system, which we looked upon as most injurious, compensated them himself at very great expense.

1922. Chairman. You were going to give some instance of what was paid for the tenants' interest's

Here is one case that has been carried out, and I will show your Lordship the papers. The rent was 29 l. 16 s. 3 d.; the valuation 23 l. 10 s.; 1 mention the valuation there to show that the rent is not extraordinary. There were 21 years 28th Moreh 1882.] Mr. Scott. [Continued.

arrears of rest due, amounting to 74 l. 10 s. 7½ d.; and the purchase money was 530 l; and out of that I was paid the 7s l. 10 s. 7½ d.

2925. When did this sale take place? About three months ago.

2924. Were the arrears paid out of the parchase-money ?

They were paid out of the purchase money by the purchaser to me. 2025. Lord Corysfort. Was there a lease on that estate?

There were no leases on Lord Leconfield's estate.

2926. Chairman.] How many years' purchase does that amount represent? About 17 years' purchase.

2927. Lord Brabourne.] Was that price obtained by competition?
Yes, there were other people very anxious to get it.

Yes, there were other people very anxious to get it.
2928. Chairman.] Was that a holding on which there had been tenant right

recognised before?

No, it was not; it was by the rea-shore, and it was a very favourable farm because there was a means of getting senweed. But I have three other cases;

because there was a means of getting scaweed. But I have three other cases; I have one that is now pending; the rent is 12.7.4.4. d.; the valuation 9.1.154. and 90.7. is the purchase-most for that; there was 2½ years' rent due upon that also. The purchaser was in my office on Saturday with the money to pay me for it.

2029. Was the purchaser un adjacost tenant or a stranger?
He was not on the enture, in two sin in business in a village near. That is a vecucial holding with the root miscrable and thipsdased belings upon it, is a remaind of the control of the co

2930. Viscount Hatchisson.] The purchaser is a man in business in the town, I understand you to say? At Six Mile Bridge.

2931. How do you mean engaged in business? He is a miller.

2932. Lord Brabourne.] Is that sale effected by private agreement, or is it put up by auction?

put up by auction? These were all by private agreement. Then there is another man whom I heard from this morning. He was in my office on Saturday. His rent was only $4.10 \, s.$; his valuation $64.13 \, s.$, so that his is a very cheap holding indeed, and he is to get 100.1 for it.

2015. Viscoust Hucklisson, That represents 30 years' purchase, does it too! That is just the money; it is about 20 years' purchase. There is smother little man upon the mountain near the sea. The rent is 2 £ 17.5. of 4, the velocities 2.1 £ 12. and the money he is looking for is 70. i, and believe a tensat of our hand of the contract of the contrac

2934. Chairman.] Are these cases the first sales of tenants' interests? Yes, these are the only cases on that estate that have come under my notice.

2935. Viscount *Hutchinson.*] These are cases where the sales have been effected at the existing rent?

At the existing rent.

2036. I mean there has been no judicial rent fixed, has there ? No, and no application for it.

2937. Lord Tyrone.] As regards your former answers about the purchase (0.1.) $_{\rm M}$ M 2 $_{\rm Clauses}$

Mr. Scott. [Continued. 28th March 1882.7

clauses, I understand you to say that the tenant is in such a good position now, that he is not likely to alter it by purchasing?

I do not think that at present the tennots bave any ambition to be owners of their holdings. 2938. And unless they have to pay less money to the Government than they

y in rent, you do not think they will purchase? I do not think they will be anxious to become purchasers.

2030. Is the fact of having to nay any money down against the probabilities of purchase? It is of course, very seriously so.

2040. And in order to render any scheme of purchase successful, I suppose you would suggest that no money should be paid down by the tenant?

I think, if carried out at all, that is the way in which it must be done; it is a very dangerous principle to admit, but still if the system is to be carried out, I do not see bow it is to be done unless the Government are prepared to advance the whole of the money, and extend the time during which it may be

repaid. 2041. That is the only way in which it is possible to do it, you think? Yes.

2042. Have you any other suggestion that you can make by which these purchase clauses could be made workable?

The only way in which it could be done at all, I think, is that where the landlords are anxious to dispose of their property, the Government should take it off their hands, and deal with the tenants. I do not see how the landlords could deal with the tenants individually; they could not let the good men go, and

keep the bad ones. 2043. Viscount Hutchinson. That question of residue is very important, is

Of course it would make an estate more difficult of management for the part than the whole; you would have all the bad parts left on your hands.

2944. You do not seem to believe very strongly in the desire of the Clare tenant at all events to become the owner of his form? Not in any part of Ireland that I am acquainted with; I have not found the

slightest inclination to do it. 2045. You do not think that what has been called the magic of property has

any very great weight with them? They may find it out in time, but it has not developed itself yet. 2946. Suppose it was possible for the tenaut to purchase or rather to enter

into possession of his holding by the payment of a terminable annuity at less than the rent at this moment, do you think he would be ever satisfied with that?

I do not think he would, but that is a political question. 2947. I do not mean from a political point of view at all, but from an economic view. Do you not think the tenant is perfectly alive to the fact that he is the only possible purchaser of land in Ireland?

Of course he is. 2948. And there is no reason why be should pay a smaller annuity for 52 years upon the basis of a price which there is no competition to fix, is there?

Precisely. 2949. Lord Tyrone.] Do the tenants that you have come across in Clare look upon this Act as a settlement of the question?

I am sure that they do not; I think they look upon it as an instalment.

2950. And only as an instalment?

Ooly as an justalment.

2951. Marquess of Salisbury.] Do you think that the tenant looks forward to get more out of the owner by legislation than has hitberto been obtained? I am sure he does.

2052. Therefore

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2952. Therefore, naturally, he does not wish to become the owner himself? It will operate in that way.

2953. Earl Stanhope.] Have you any suggestion to offer to the Committee as how to make the purchase clauses more effective?

It think that there should be greater facilities given to handowners who are moriton to dispose of their property, and who no longer with to keep the responsibility of property; to get rid of it. There are no purchasers now except the ant present around the buy, and secondly, according to the Act, the does some to be rish the handred should have out a quarter of the purchase-money (25 per would not work, for this simple reason, which you come to the them the would not work, for this simple reason, which you can see the small transits you would have to take a separate mortgage from each for 3.4, 10.4, 13.6, $\alpha = 20.4$, and if you had served handred tensing you would have very of offence. The only the property of the pr

2954. Do you think that the time for the repayment of the loan, which is now 35 years, ought to be extended? That is a financial question that I hardly understand; I do not think the

That is a financial question that I hardly understand; I do not think the purchase clauses will work without something of that kind being done, but it is a dangerous thing to do.

2935. Lord Brabourne.] Do you expect to recover the arrears due on Lord Leconfield's estate from the tenants?

I do from the large majority of them.

2056. Do you think that that will be the case throughout Ireland?

I do not, but I think on Lord Leconfield's estate it will; there may be delay about it, but I think there will not be any very large amount permanenty lost. In the first place, I think a great many of those men who are in arrear; will pay up when this agitation passes away; the others will be broken and by the sales of their interests the moneys will come in just as in the cases I have incontinued before.

2957. We were told by a witness of some authority that he thought the only way of settling this question of arrears would be, that the Government should give a fire grant of a certain portion of the arrears to the landbord, and that the rest should be swept away and given to the tensuts; is that your opinion? I have not got to do with those cases, but I am afraid anything of that sort

would be a direct inducement to tenants to fall into arrear in the future.

2058. Chairman: Do you happen to know as a matter of fact, in cases where a indicial result has been fixed, whether any question shout the arrears has been

left open?

I am not aware of any such cases.

2959. You do not know how that is; in cases on your own estate has there been any question pending about arrears where the judicial reot has been fixed?

None at all. 2950. Lord Brabourne.] Do you think it would be possible to espitalize arrears, and to charge interest upon that capital under the sanction of the

arrears, and to charge interest upon that capital under the sanction of the Commissioners, which might in the first instance pay the landlord? I suppose some scheme of that sort might be adopted, but then you are adding to what is considered a fair rent.

2951. It would in the first instance, would it not, be a compromise or arrangement between the landlord and the tenant, but if they could arrive at such an arrangement, to you see any objection to having that as a sparate trut, based upon the principle of loans in this country, paying off principal and interest by annual payment?

I think some scheme of that sort might be worked out.

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2962. Would

28th March 1882.] Mr. Scott. Continued.

2902. Would it not be better to have some such scheme as that than to hring the landlords and tenants into collision on the subject of arrears, if it could be thereby avoided. Perhaps you have not given your attention to that

point? I have not given my attention to that point,

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2963. Viscount Hutchinson.] Are all these tenants of yours where judicial rents have been fixed free from arrears?

They only owe a half year. They would owe the March 1881 rent. They have dropped back half a year. They were solvent men; in fact, I do not thick

the insolvent men are inclined to go to the Court.

2964. Lord Brabourne. Suppose a man owed 100 l. to his landlord, and he agreed to capitalise that at a smaller sum, and that the amount, including principal and interest, should be annually paid as an additional rent; that would not be a very had arrangement for the tenant, would it? In such cases I do not think the tenant ever intended to pay the arrears.

2965. Marquess of Salisbury. Do you think the Irish tenantry generally

contemplate paying the arrests? Where there are large arrears, I am sore they never do; but where they are simply the arrears that have fallen back in the last year or two. I think they all expect to have to pay them up,

2966. Lord Kenry.] Do you think they can; pay them in a great many of the cases ?

In a great many of the cases they can; in some of course they cannot.

2967. Lord Brabourne] You do not agree with the evidence given us, that the two years before 1880 and 1881 were so disastrous for the farmers, that their losses cannot have been at all recovered by the two last years, which have been better?

I shink their losses were very great in those years, but the landlords, as a rule, gave them abatements, and gave them considerations. Perhaps half a year may have fallen hack; but I thought your Lordship was speaking about large and long-standing arrears.

2968. I was not on the question of arrears, but asking the question generally? 1878 and 1879 were bad years, worse years, I think, than 1880 and

1881 2969. But the last two years, 1880 and 1881, were good years, were they not !

My experience is that they were good years. 2970. Marquess of Salisbury.] What sort of expense have the cases that

you have been into Court with, come to? I have not paid the costs yet, but I should think they could not have been less than 12 L to 15 L a piece.

2971. They are all under appeal, are they it They are all under appeal.

2972. You have not yet had any appeals heard? No, the cases were only heard the other day.

2973. Lord Tyrone.] Is not the adjournment of cases a great element in the expense? Of course it is.

2074. And has that taken place in any of your cases?

It did not take place to any exteot in the Limerick cases, but I have had five cases in the county of Meath; they were adjourned at, of course, very considerable expense. Fortunately, my valuer did not come down. I was to telegraph for him when he was wanted, hut counsel was feed in 10 cases, and of course that will be no expense.

2975. Have

Mr. Scorr.

28th March 1882.

2075. Have you bened of other landlords who have been put to great expense by having their cases listed for trial and not heard? I know they have. I could not say that I have heard complaints; besides which I think up to the present we have all been glad to have adjournments to

gain time and to see how things worked. 2976. Viscount Hutchinson. | Have you ever moved for an adjournment yourself?

I have moved for an adjournment, in consequence of being here to-day. I did in one case, because it was inconvenient, ask to have it adjourned from Croome to Limerick.

2077. And did you suffer in cost in consequence? No, the tenants agreed; it was convenient to the tenants as well as to us.

2078. Marquess of Salisbury.] Did the Commissioners go over the forms in

the cases in which you were concerned? They did.

2979. Did they go over them io company with you? Yes, I went with them.

2980. And did the tenants go also? Yes; and more than that, the tenants had a representative there. One of their valuers went round with us.

2981. Viscount Hutchinson.] Did your valuer go with you?

No, I went myself 2982. Marquess of Salisbury.] I suppose the cases were partially heard while you were walking along?

No, the Suh-Commissioners very properly would not hear the cases at all. They referred to their notes, and said they would not hear anything beyond the evidence given the day before

2983. They would not allow any fresh evidence to he given on the spot i

No, they stopped it at once. 2984. I suppose they asked questions with respect to what they saw?

They saked to see the improvements, and valued the land. 2985. Did they not ask anything about the history of this-and-that drain, and

this-and-that hedge, and so on? Yes, if it was already in evidence.

2986. Do you mean that they went into no new matter? The parties were stopped in several cases where it was said that the matter spoken of was not in evidence, when I was out with them on that occasion.

2987. Duke of Somerset.] Is there any point on which you think it important to make any statement to the Committee as to which no question has heen asked you?

The only point is with reference to the purchase by the Government of the landlord's interest; the difficulty I have always felt has been, how to ascertain the value of such interest, because if the purchase clauses are to work, it can only he done to any extent by the Government purchasing, and then selling to the tenants. A certain number of years' purchase would be unfair at the present rent, and the judicial rent would be still worse. I do not know whether any scheme could be worked out by means of which it could be ascertained what the selling value of property had been for a certain number of years' prior to the existing agitation hased on Griffith's valuation, not absolutely, but with reference to certain areas and certain classes of land, and then to fix a certain number of years' purchase at which the landlord should have the option, if he liked, of saying to the Government, "You must take it off my hands." I think, if possible, there should be some scheme worked out that would fix a selling price at which the Government should be obliged to take the property off the bandlord's hands, if he found his position intolerable; the difficulty is, to know how to arrive at that. и м 4 (0.1.)

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28th March 1882.7 Continued. 2988. Do you mean the price at which the laudlord might, as it were, force

the Commission to buy? Precisely: the landlord's property is now unsaleable, and I do not see how he is to deal with the tenants; I think the dealing with the tenants must be by

the Commission. 2989. Earl of Pembroke and Montgomery.] That price, I understand, would

have to be so low that the tenant would be willing to huy at it? I would not make it compulsory on the landlord to sell, it should be optional.

2000. Lord Tyrone.] Have you heard that the Sub-Commissioners are to be

removed from the districts in which they have been working? They told me so themselves: Mr. Reeves, Mr. Rice, and Mr. O'Keefe, all told me that their Commission was likely to be removed, and that Mr. Rice and Mr. O'Keele were not likely to come round our district again. I also heard that in Mr. Hodder's Commission there was to be a change, but whether the Sub-

Commissioners are all to be removed or not, I am not prepared to say. 2991. Do you think it would be a great advantage to retain the Sub-Commissioners who have learned the class of land, and the class of people, in the dis-

tricts in which they have been engaged? In some cases it would, and in some cases it would not; it depends upon circumstances.

2992. But theoretically, do you think so? Theoretically it would; but I think it is very undesirable to bave Sub-Commissioners valuing in their own counties; I am not speaking personally when I say that.

2993. Marquess of Salisbury.] Are there several cases of that kind? Yes; for instance, the two gentlemen who came round Clare, Mr. Rice and Mr. O'Keefe, do not belong to Clare, but they belong to Cork, and they were valuing in Cork.

2004. Were they deciding cases in Cork?

Yes; Cork was in their district.

2995. What is their position in Cork? Mr. Rice was a large farmer, and Mr. O'Keefe holds land : he was also professor of chemistry in the Queen's College.

2006. Then if Mr. O'Keefe wanted his rent lowered, he would buve to go into his own Court? He is a leaseholder; that state of things does not apply to Clare or

Limerick : Mr. O'Keefe was not in that neighbourhood, but his own Court was within bis district. 2007. Then he would have to adjudicate on many of the cases of the farmers

who are his neighbours? He did do so, I tbink.

2998. That might be a very good thing for them, might it not? It may or may not be.

2999. Viscount Hutchinson.] You have some knowledge of County Cork yourself, have you not? Yes.

3000. You managed a property there once, I believe? I managed Lord Midleton's property for many years.

The Witness is directed to withdraw.

Mr. JOHN YOUNG, is called in; and Examined, as follows:

3001. Chairman.] You are an owner of property in the County of Autrim, near Ballymena, I believe? I am.

3002. You live at Galgorno, and you are a Justice of the Peace and Deputy Lieutenant for Antrim?

3003. Have you observed the working in your county of the Land Act of last year \hat{r}

Yes; we have had several circuits of the Sub-Commissioners in our county,

They have sat at Ballymena twice.

3005. On your own property have you had any cases?

I have had no cases on my wown property; but on several of the properties immediately adjoining mine there have been cases.

3006. So far as you have observed, can you tell the Committee what the effect of the Act has been as regards the sole value of property in the

market?
Since the Act was passed, I do not know of any actual sale having taken
place; but from the conversation that one hears almost everywhere, my opinion
is, that the value of land has materially depreciated; in fact, that the market

value is taken from it. There is no purchaser left but the tenant.

3007. Speaking of the present moment, I suppose you agree with what some other witnesses have said, that there is no market for selling the ownership of

I think it would be exceedingly difficult to find a purchaser at all?

3008. Have you observed how far the interest of tenants is saleable in your

neighbourhood?
Tenant right commands as high a value as it ever did, I think; I have known an instance of a small farm on my own property which was sold the other day for 130 L; the rent was 8 L 10 s., and the land had miserable housing upon it.

3009. Were there any arrears of rent upon the holding?

There were two years' arrears, but the furm was not sold in consequence of arrears; there was no pressure for the renat; it was sold merely in consequence of the tenant wishing to change his shods.

3010. And the arrears were paid out of the purchase-money, I suppose? The arrears were paid out of the purchase-money.

3011. Have there been any instances in your neighbourhood of the tenants buying their boldings under the Land Act?

None; in fact, I think the senants are unlikely to purchase under the existing arrangements, in consequence of the disappointment that they feel from the Purchase Clauses giving them to immediate relief.

3012. You mean according to the arrangement in the Purchase Clauses their annual payment would not be lowered?

Their annual payment would be increased; I calculate that for a farm, say of 50 L a year present annual rent, or judicial rent, the tenant would have to pay

52 L. or 53 L under the Government arrangement for the 35 years, so sa to pay off the purchase-money.

3013. What do you put the capital value at; how many years' purchase do

you take for that?

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The

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Mr. Young.

[Continued.

Yes;

The Government are supposed to leud money at 32 per cent, or rather, 5 per cent, for 35 years, 35 per cent being the interest to tenants for the purchase of three-fourths of their holding, they themselves finding the other one-fourth. Any calculation that I have seen upon the subject makes out that the tenant, under this arrangement, would have to pay some 2 l. or 3 l. more than the 50 l. for the 35 years, as undoutedly he would have to pay a high interest for the one-fourth if horrowed. With regard to the number of years' purchase, this would depend on the nature of the estate in question, and ought to very in proportion to the circumstances.

ROLL. Besides the taxation that would fall upon him as owner? Besides the taxation that would fall upon him as owner-

ous. Which would be 2 l. or 3 l. more, would it not?

He would have to pay the whole of the poor rate, which in our country would amount to about 16 d. in the pound.

3016. Marquess of Salisbury.] Do you mean the whole or half the poor rate; as occupier he has to pay half, has he not? Yes, 16 d, is the amount of the whole noor rate,

3017. So that he would have to pay 8 d. in the pound additional? Yes.

3018. Duke of Somerset.] Wheo he has bought the farm could be not look forward to managing it so as to make it more profitable?

From my experience to the county Antrim the security the tecant has always held under a tenant-right has been amply sufficient to induce the outlay of his own labour and capital.

3019. Has there been a large outlay under that security? Of labour I think there has,

3020. Marquess of Salisbury. But not of capital, you think? The labour is the tenant's capital.

3021. But he has not borrowed capital for the purpose? No, unless to buy the tenant-right, for which very often the money is

horrowed. 3022. At what interest would the hanks lend for that transaction which you

have just spoken of?

I do not think the banks would lend to the farmers at all. 3023. Then that sum you have just spoken of, the 130 l., would have to be

found out of his own capital? It would have to be found out of his uwn capital, or borrowed.

3024. There is no money lent now, is there?

Only by the usurer; no bank would ever have lent upon that security.

3025. At what rate do the usurers lend? Fiva or six per cent.

3026. Do you call that usury?

When I speak of a usurer, I mean a country money lender.

3027. Lord Tyrone.] You say that there has always been this security under the tenant-right system; do you mean since the Act of 1870, or do you mean really always?

The Act of 1870 made no change at all with regard to tenant-right, except that it made it a legal claim in a court of law, but I do not know any estate on which it was not recognised.

3028. And was it an equal security in the mind of the tenant before the Act of 1870? I think it was.

3029. Chairman.] The Act of 1870 made it, I suppose, an available accurity for persons who had it not before; for example, hankers and outside creditors

Yes; and promoted a great deal of borrowing of money which has been far from beneficial to the tenant.

from heneficial to the tenant.

3030. With regard to the purchase clauses under the present Act, have you

considered any way in which, in your opinion, they might be made more workable than they are? I think the lowering of the rate of interest, and the extension of the time of repayment, would make them much more workable; but my opinion is that they will never work freely as long as the tenant has to provide the one-fourth

3031. When you speak of the lowering of the rate of interest, I suppose you mean the lowering of the annual instalment?

The annual instalment

The annual instalment.

of the money.

3032. Including the interest and the sinking fund? Including the interest and the sinking fund.

3033. And you think that as long as the tenaut himself has to provide any part of the money down on the spot, that will he an obstacle in the way of the working of the clauses?

I think it will.

3034. Duke of Somerset.] If he does not mind paying money down for the tenant-right, why should he mind paying money down for the purchase?

He would have to pay both; he is out of pocket for the tenant-right already; he has spent all his money in buying the tenant-right, and cannot both huy it and the fee.

3035. Chairman.] He has probably horrowed the money to buy it, has he not? He has probably borrowed the greater part of it, or the whole.

3036. Marquess of Salisbury.] If he had to pay 18 years purchase for the tenant-right, and 20 years' purchase afterwards for the land, he would pay a good price for his land?

He would pay a good price for his land. When the interest for the tenant-

right as added to his rent it brings up the annual payments tolerably high.

3037. Chairman, Do you think if any arrangement was made by which the tenants would become the purchasers after a certain number of years, say 50 or 60 odd years, and by which their annual payments would not exceed their

present rent, or he somewhat lower, that they would be anxious to be purchasers?

I think that they would he very anxious. I think in the North of Ireland it would be universal.

3038. You think purchase would be resorted to universally?

3039. Do you consider that ultimately there would be any loss to the State in

a transaction of that kind?

In the counties of Antrim, Down, and Derry, with which I am familiar, I do not think there would. I think the tenants would honestly pay their instalments.

3040. I suppose it is the case that if the Government made an advance they would have not merely the security of the owners' interest but also the security of the tenancy' interest.

of the tenants' interest?

If the Government made the ndvance and the landlord received the money. of course the Government would have the security of the fee.

3041. Including the interests of both parties?

3041. Including the interests of both. Insamuch as the tenant being the owner of the fee would pledge the fee as security for the loan made to himself for the purchase. The objection to it in my mind would be that the present gentry of the country would be severed from all conection whatever with it.

(0.L) NN2 3042. Before

28th March 1882.] Mr. Young. [Continued.

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3042. Before we look at it from that point of view, I should like to ask you this: it has been suggested that in places (if there are any) where there would be some danger of the instalments not being punctually paid, the boards of guardinas nights to treated an guarantees of any deficiency and called upon to

gountains might be extracted by account with allow powers for recovering the deficiency from the defaulter; what day you think would be the effect of an arrangement of that kind?

I do not know how it would work. The boards of guardians have had great difficulty in many places in recovering the loan that was made for seed two

difficulty in many places in recovering the loan that was made for seed two years ago, where they had very sharp powers for recovery. I am afraid it would have thrown them into great difficulty to be made the machinery for recovering the loans of the Government.

3043. Viscount Hutchinson.] Were the boards of guardisms as a rule, very zealous in trying to recover the amount of those louns?

I do not know that they were, but I do not know that they would be more

zealous in recovering these loans. I am afraid the feeling of the country guardians would be against giving assistance to the Government at all in the recovery of these loans.

3044. Chairman.] But it would not be assisting the Government in recovering the loans; it would be calling upon the boards of guardians to make good the deficiency and then arming them with powers to recover from the defaulter in

turn what they had paid to the Government?
Then they would lawe all the bonest payers in the union assisting them to put pressure upon the defaulter. I think that might probably work very well.

put pressure upon the defaulter. I think that might probably work very well. 3045. That is considered to be the advantage in the eyes of some people, is it not?

Yes.
3046. It would enlist them on the side of punctual payment, would it not?

It is a new idea to me; I have never heard it suggested before.

3047. You speke of the working of the purchase clauses, you say the only obstacles in the way is that it would have a tendency to dissever the owners of

land from the country; has it occurred to you that there is any way of attaining the same without incurring that disadvantage? I think if the landlords were not unvilling still to remain the rent collectors, that a system of perpetuity leases might be encouraged at a greatly reduced

3048. Will you explain what the idea is that you have upon that subject?
In reply to this question, I hand in a Paper with my successions as to per-

petuity leases at reduced rents (see Appendix).

3049. In the first place, that would require the settlement of a judicial rent

over the whole of a property, would it not?

I think the tenants, with the prospects of such terms, would be very willing

to settle with their leadlords on the same coale as the judicial rents had been settled in the same county or the same neighbourhood. I think it might facilitate settlements out of court very much.

3050. Viscount Hutchinson.] What I understand you suggest is, that the landlord should be responsible to the Government for the period of 50, 60, or 70 years?

The landlord would borrnw the money on the security of the fee simple.

3051. And he would be responsible to the Government for the payment of the rent-charge during the 70 years, or whatever period it extended over? He would.

3052. In the meantime the tenant is to pay, for that number of years that the rent-charge last, only the judicial rent?
That is so.

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3053. But supposing the tenant, some fine day, refused to pay the judicial

rent? Then the landlord would be in no worse position than he is now upon the refusal, because he has the interest on his loan.

3054. But he would have no further security for getting the judicial rent than he has for getting the rent now?

He would have no further security for getting the judicial rent; but it is to be hoped that the condition of non-payment, as at present existing, would not

continue. 3055. Chairman.] Do you think an arrangement of that kind would be so attractive to the landlord, who would otherwise leave the country, that it would retain him there?

I think he would have to stay; he would he obliged to stay,

tox6. Marquesa of Salisbury. Then he might not like that necessity? He might not.

3057. And he might therefore decline the hargain, might he not? The iden is that it would be difficult to persuade the Government to become

the rent collectors of the whole country, which they would be obliged to do under an extensive system of purchase. 3058. But it might be equally difficult to induce the landlord to continue,

might it not? It might; in the north it would not, I think.

3050. In face, the collection of rent is a function which nobody is ambitious to fulfil?

At the present moment that is so. I think that in the north it would work very satisfactorily, and he engerly embraced by both landlord and tenant.

20fo. Chairman. You mean the system of perpetuity leases?

3061. As compared with an arrangement which would facilitate purchase, do you think it would be more acceptable? I think it would be more acceptable to the landlords there.

3062. In the north, you mean? In the north.

3063. Marquess of Salisbury.] What is it that would induce the landlords to remain as rent collectors, and rent collectors only? Well, they would still have any prospective value there was in the unoccupied

parts of their estates which is set down in the Ordnance map as waste land, hogs and such like, which are turnable to some account at different times. I do not see what is to become of those in the case of a sale out-and-out of all the farms.

3064. Is that all the inducement that you have to offer to the landlord? He would still have what many landlovds think a very satisfactory possession

in Ireland; he would be in receipt of head rents, or small rents, out of the property. There are many estates where the interest of the landlord is very small indeed in proportion to the annual value. 3065. You think that the plessure of residing in the country would be

sufficient to induce him to stay? I think there are many of them with large demesnes and residential places who would find it very difficult to leave.

3066. Chairman.] You think they would be glad of an arrangement which would enable them to continue without hreaking up their homes?

I think they would be glad of an arrangement which would enable them to continue without breaking up their connection and their homes. It would enable the owner of an estate, who was encumbered to perhaps the extent of a fourth or half his estate, to pay off his encumbrance; and certainly, in the NN3 (0.1.)

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28th March 1882.7 Mr. Yonna. [Continued.

higher rate of interest at which he would lend the money out, or in the paying off his mortgages, he would recoup a considerable amount of the reduction taken off him by the Sub-Commissioners.

3067. Have you put down upon paper the scheme which you have indicated in general terms to the Committee?

I only heard last night that I would be required to appear before the Committee, but I have no difficulty in putting it down upon paper.

oos. You would have no difficulty in putting it down and handing it in ?

I think not.

3060. Your idea is that a scheme such as you mention might be attractive to some persons to whom the scheme of purchase might not be attractive?

I think it would be attractive to many persons. I have mentioned the idea to several largish landed proprietors in the north of Ireland, and they seem to think it would be a very satisfactory arrangement for them.

3070. And if it were embraced by any substantial number, you think it would

so far lighten the obligation which would otherwise lie upon the Government to be the rent collectors? It would, and it would also lighten by one-fourth, the amount of money to be

provided, if the Government entertained the idea of providing all the purchase money.

3071. Lord Tyrone.] Has the uncertainty of the principles upon which the Sub-Commissioners have been acting been a cause of producing an unsettlement in the value of land?

Very great. No owner of property brought into Court, or served with an originating notice, has the least idea what principles will be applied in fixing his new rent, nor can he form my idea under the arrangements of the Commissioners as to whether his own rent is what they would consider fair or not; in fact, he is completely in the dark.

3072. Has there been in your district any settlements of the rent out of Court? Very few.

3073. Is that caused by the uncertainty of the principles upon which the decisions of the Court have been arrived at I think it is in a great measure. The tenants have very extravagant notions

as to the reductions they ought to get, and the landlords are very unwilling, on estates where they think their lands are fairly let, to make reductions until they are forced to do so. 3074. Then do you think if some principle was laid down upon which the

Sub-Commissioners were likely to act for the future, that settlements might be come to out of Court? I think they would be very numerous.

3075. And that it would be au advantage to both landlord and tenant in

preventing expense?

Very great; the costs to the landlord of fighting the cases in the Court are very onerous.

3076. As regards the purchasers, do you consider that the fact of the rents being fixed for only 15 years is an element to prevent purchasing under this Act ?

I think very few men would care to invest capital in a property the income of which is to be revised every 15 years; I think it is fatal to the value of property. 3077. I suppose you have a very good knowledge of what the value of land in

Ireland was previous to the passing of the Act? Only in my own county and the neighbouring counties.

3078. I mean in your own district? Yes, very good.

3079. Can

28th Morch 1882.1 Mr. YOUNG Continued.

2079. Can you have any idea at all now of what would he the fair value to place upon it? About 10 miles from my property there was a small estate sold a year and a balf ago for 29 years' purchase; that is six or eight months before the passing

of the Act. I do not think the same estate would sell at all now. 20 So. Chairman, Wus that estate, for which 29 years' purchase was paid, in the neighbourhood of a town?

It was 10 miles from Ballymena. no81. Marquess of Abercorn. Was it a rented estate, or an estate in the hands

of the laudlord? Rented by tenants and rented at what was supposed to be a fair letting

3082. Lord Tyrone. Are you aware whether the rents upon that estate were

high or low? A friend of mine who has a very good idea of the value of land, was himself thinking of purchasing it, and examined it with that view, and his idea was that it was very fairly let, and it sold at that rental at 29 years' purchase. I helieve

the purchaser has since his purchase, and since the passing of the Act, reduced the rent some 20 or 30 per cent. rather than litigate. 3083. And yet I understand you to say that even though the rent has been

reduced since the time it was purchased, that estate is not saleable at present?

It would be searcely fair for me to say so, because I am only stating my opinion. I have no means of judging except from what one hears in couversation. I do not think any man would invest money in land at present or

until things are more settled. 2084. Did you anticipate that the Act would have any of the effects which

you have described when it was being passed?

My owniden of the affect of the Act was that the larger estates would be taken as the standard, and that smaller man, who always charge a greater rent than the owners of large estates, would be reduced to that standard, and when once the rants were fixed by judicial proceeding, the number of years' purchase

at which it would sell would increase. 3085. The number of years' purchase at which it would sell by the landlord, you mean?

The number of years' purchase at which it would sell by the landlord. I thought the landlord's interest, when his rent bad heen revised by the Court, would command a higher market value than it did before. Instead of that it bas become, in my opinion, totally unmarketable or unsaleable.

3086. You have no other suggestion to make, as I understand, except the one

you made to the noble and learned Lord, as to permanent lesses?

I think the purchase clauses ought to be made such as would enable the tenant to purchase his land from the landlord without an increase of rent. I think the Government, if they attempted it at all, should put the tenant in a position to buy without any present loss; that the time of repayment should be extended and the interest demanded lowered. That could be done without any loss to the Exchequer, if the tecants paid their instalments.

3087. Then I suppose, at you expected what you have stated as likely to be the outcome of the Act, you were not opposed to the passing of the Act at the

time as many landlords were? I thought it was a very arbitrary interference with the rights of property, that any Court should fix the rent, but I did not contemplate that the fixing of the rents by the Courts would work the evil that it has done.

3088. Did you anticipate that the rents would be decided by the present class of Sub-Commissioners? No; we have all been greatly disappointed at the class of men appointed. The expectation was that if Sub-Commissioners were appointed at all, the chair-

man of each sub-commission would be a lawyer of reputs, such as could have aspired NN4 (0.1.)

MINUTES OF EVIDENCE TAKEN BEFORE THE

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28th March 1882.7 Mr. YOUNG. Continued.

aspired to a county judgeship. Many of them have been practising attorneys. very respectable perhaps in their own profession, but they are not a class of men that one expects to see presiding in a court of law.

308q. Is their experience of the value of lond at all what it should be as

regards men who have to fix the value for 15 years?

I do not think it could be, and they are fixing the rents now in a time of temporary depression, having no regard whatever to the past, but every regard to what they think to be the certain depression of the future. I think it is a very great hardship to the landlords that at the very hottom of the value the rest should be fixed arbitrarily for the next 15 years. It is very different to a voluntury reduction given during a bad year; these reductions are given in what are

3090. What is the feeling io the public mind in the north in regard to the decisions of the Suh-Commissioners?

considered the had times, and are to continue for 15 years.

The feeling is very different. The feeling of the tenants, at least the feeling to which they give expression, is, that the decisions of the Sub-Commissioners ure not low enough. It is very difficult to test public feeling in that way. Of coarse the landlords hold a very different view.

3091. Marquess of Abercorn. Is not that feeling principally dependent upon what is called Healy's Clause? I think it is. There is an idea in the teoant's mind that Healy's Clause gives

them the right to everything but what they call now the prorie value, and that everything which is on the soil beyond the original state of nature belongs to the tenant.

3092. Lord Tyrone.] Have you heard that the Sub-Commissioners who have been at work in the different districts are to be removed from those districts after this time? I have; and I consider that, supposing them to be qualified men, to be a great

evil, because they will lose the advantage of any information they have got in the district in which they have been working; I think it is utterly ubsurd to shift men about from one county to another, and expect them to value land; it is impossible for them to do it properly; supposing the men to be qualified at all, it is better to retain them where they have obtained knowledge than to take them to a strange place.

3093. Have you, on your estate in the north, considered the question of lahourers' cottages, as resulting from the action of the Act? In some five or six cases where decisions have been made the Commissioners

have ordered that cottages he put in a certain condition and a rood of land attached to them.

3094. That was not upon your own property, because you have not had any cases ? No, I have not.

3095. I was asking about your own property; do you consider that on your own property there is room for building labourers' cottages with advantage On the properties immediately about my neighbourhood the population is very thick, in consequence of weaving being a general employment; and there are more people living upon the land than are wanted for agricultural purposes; the consequence is, that in any revision with regard to labourers' cottages you would require to consider for what purposes they were wanted; it would be very unjust to the formers themselves to insist upon all the houses that are upon their lands being put in a statutable condition, because the people are not wanted for the labour of the land; the houses, as a rule, are badly arranged, and the labourers hadly accommodated.

3096. I suppose you would infer that if the Sub-Commissioners ordered labourers' cottages to be built they should be fit for human habitation? Certainly.

3097. You are not aware, I suppose, whether there is any arrangement by

28th March 1882.] Mr. Young. [Continued.

which the Sub-Commissioners can force tenants to build cottages of that description?

They have given orders, but I do not see how they are to be enforced.

30g8. Duke of Somerset.] You say there are more people upon the land than are wanted for the cultivation of the land in their neighbourhoods?

They occupy themselves by wearing linen, and labouring on the land, when called upon by the tenant. They get a house, in fact, on that condition, that

called upon by the tenant. They get a house, in fact, on that condition, that they give so many days' work in the year.

3099. Then during the other time they are employed in the linen manufacture?

During the other time they are weaving.

3100. Marquess of Abercorn.] A man of that kind is generally very well off,

is he not, if his family can weave?
In good times they are very well off, but of late wages have been very low.

3101. Marquess of Salisbury.] You were speaking about the importance of inducing the gentry to continue residing in Ireland, but the inducements to them to do so are very much less than they used to be, are they not?

Very much less.

3102. The political influence, I suppose, to a great extent, has disappeared, has it not?

Entirely since 1870.

3103. The sporting rights are no longer of the value which they formerly

possessed, are there?
This last year they have been of very little value; they have been encroached upon very largely indeed, in many counties.

3104. By the violence of the people, do you mean?

By the violence of the people.

3105. But is it not also the case that recent legislation has made them of less
value. I refer to the Hares and Rabbits Bill?

I think not.

3105. There is very little now to induce gentry to remain in the country, except financial reasons, and their attachment to the country if they are animated

by that feeling, is there?

If the present excitement were calmed down, I do not see why it should not be as pleasurt a country to live in as ever it was.

3107. Do you mean that the relation between the landlords and the tenants is likely to resume its former friendly footing?

I do not see any rearyon why it should not, and why they should not live

on pleasant terms together; certainly in the North.
3:08. Your experience is principally confined to the North, I suppose?

Entirely.

3109. You entertain the hope that in the North there may be a restoration of
the freding that formerly existed?

I think it is certain.

3110. Do you not think that for the purpose of bringing that about, it is desirable to bring to a conclusion the cases in these courts as rapidly as possible?

Certainly, they provoke ill-feeling immensely. As long as these courts are going circuit, there will be irritation and ill-feeling.

3111. Has any plan occurred to you by which the block in the courts may be

diminished?
There is a very general feeling among all owners of land that I have talked to, that it would be a very advisable thing, if instead of the courts, the Valuation Office (Mr. Ball Greene's office in Dublin) would take up the rent question, and fix what the rents quest to the

(0.1.) O O 3112. Do

28th March 1882.7 [Continued.

3112. Do you think that the decision of Mr. Ball Greene and his subordinates would be looked to with confidence as an arbitration? I do.

3113. By both landlord and tenant. By both landlord and tenant.

3114. And to decide the knotty question that often arises, as to the value of the tenent's improvements to the farm? That is a question that in theory seems very difficult, but in practice anyone

familiar with the dealings between landlord and tenant in Ireland can arrive at it in a very short time. There is very little difficulty about it.

3115. Chairman.] How is that, because we hear it spoken of as if it were a matter of very great difficulty indeed?

The houses and buildings speak for themselves; there is no question about them, and in no estate that I have had any experience of was any rent ever charged for a building.

3116. You say that they speak for themselves?

There they are.

3117. They testify to their being there, but they do not speak as to who built It is presumed that the tenant built them, and the contrary is never contended. unless the landlord is able to show, which is a matter of notoriety, that he has

built them. 3118. Marquess of Salisbury.] Which does not happen very often, I suppose?

It happens very seldom.

3119. Lord Tyrone.] You are merely referring to the north?

1 am merely referring to the north. There are estates, no doubt, but I think they are the exception, where the landlord has built houses.

3120. Chairman.] You say that, as a general rule, nobody would think of putting any rent on the buildings? I never knew it done. The other improvements, I think, are very easily ascer-

tained. Anyone accustomed to value land will see, from the nature of the land itself, from its quality and surroundings, whether it was ever drained or not, and if drained, it is very easy to find out whether the drains had been put in upon a scientific principle, or merely here and there, as is the custom of the tenants. I do not think it is a practical difficulty at all, although theoretically it seems very difficult to explain.

2121. Lord Tyrone. Have you come across any deterioration of land in your district? Yes.

122. Is that difficult to ascertain?

No, I think it is very easy to find ont whether a farm has been badly cultivated or not.

2123. Are you aware whether the Sub-Commissioners have made any deductions from the rent for deterioration? They have only looked at one side of that question, I believe. If they followed

out their own theory they ought to aid to the rent, in the case of deterioration, to compensate the laudlord for his loss. 3124. Chairman.] To value the land at what it would be worth if there had

been no deterioration you mean? Yes; I think they value it as they see it, and the landlord suffers from that deterioration.

2125. Marquess of Salisbury. Then if they only go on long enough the whole of Ireland will be deteriorated, because the tenants will prepare their land for the visits of the Suh-Commissioners, will they not?

If

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28th March 1882.] Mr. YOUNG. [Continued.

If they go on as at present there will be no rent left at all, because they will deduct the value of their improvements over again.

game time value of their improvements over again.

3126. Lord Brabourne.] That offers a premium upon deterioration, does it

It does. There is an immense inducement to tenants with a 15 years' term to cultivate the last four or five years as badly as possible, so as to get a low rent fixed.

rent fixed.

3117. Morques of Salisbury.] We are told that at the present rate the Courts are likely to go on for s-weral years with the present crop of cases; if that is so will it not be an inducement to the tenant, foreseeing that in two or three years he is going before the Court, to get his land into a condition which may mouse

the sympathies of the Commissioners?

I think the temptation in that respect is very great.

3128. Earl Stanhope.] In your scheme of a general revaluation under Mr. Ball Greene's Office, would that expedite matters very much? I think it would very much.

3129. Have you made any rough approximate calculation of how long it would isk to do it?

Only upon hearsy, Mr. John Malholland, a Member of the House of Common, told me he had hed a conversation with Mr. Ball Greene upon the subject, who stated that he could revalue the whole of Irehand sufficiently for rent purposes in three years, and he added that he did not consider any block to business would occur because he could take up the pressing cases first and have them arranged.

3130. That is exclusive of losses I suppose; he would not value land under lease would be? As the law stands at present there is no object in revaluing leases until they fall in.

3131. Lord Brabourne.] Do you think the leaseholders will long submit to being in such a much worse position? I do not think they will; I think there is some agitation at present among them.

They think they have been very unfairly dealt with.

3132. Do you think the labourers will long submit to not being given a share in the produce of the land?

I do not think they will.

3133. We have got then that anticipation to look forward to?

You have that auticipation to look forward to.

You have that anticipation to look forward to. 3134. Chairman.] Do you think a re-valuation by Mr. Ball Greene's office would

be satisfactory to both tenant and landlord?

I do; most certainly in the country Antrim it would be accepted at once by both sides as satisfactory.

3135. Earl of Pembroke and Montgomery.] You would give some right of appeal from that valuation I suppose, would you not?

There would be no difficulty in giving the same right of appeal that there is now to the Land Court. I think the appeals would be very few.

3136. Lord Brabosrae.] Would not a personal inspection of the improve-

ments be necessary on behalf of the spolicant, whether tenant or landlord.
We now hear that there is a great difference of opinion as to the value of the
improvements?

I think now that both landlord and tenant is alive to the question of improvements, that there will be records kept.

3137. Before those records are kept (say now at the present moment), do you suppose that the decision of the Central Court, unless it had an inspection, could be satisfactor?

As far as I have seen in regard to the inspection of the Courts, I think the (0.1.)

O 0 2

28th March 1882.7 Mr. Yoong. [Continued. evidence of skilled men would be much more valuable than the inspection of

the Court. 3138. That would be an inspection by skilled men, would it not?

Under the Valuation Office it would be very desirable.

3130. Eurl Stanhope. There has been an alternative scheme suggested, namely. that each Sub-Commission as it was constituted should employ valuers before they go into their districts, so that they should know the value of the land that comes hefore them without going on the land itself. Do you think that is a valuable suggestion ?

The only instances we have of land being valued by valuers appointed by the Court are the valuations of Mr. Grav and Mr. O'Brien, and I think the Courts seemed to disregard their valuation entirely in their decisions.

3140. Lord Brahourne.] Do you mean that they fixed the rent below or above the valuation?

They fixed the rent helow it. 3141. Did they say anything in their judgment to justify their having dis-

regarded it altogether? I think Mr. Justice O'Hagan said in his judgment that he considered that

Messrs. Gray and O'Brien in fixing the rent had fixed the gross rent, and that from that rent they were expected to deduct the improvements, but upon reading the valuation of Messrs, Gray and O'Brien it was impossible for an outsider to take that view of it. I certainly did not so read it.

3142. Are you aware that three new Sub-Commissions have been just appointed?

I have seen it so stated in the papers.

3143. Do you not think that that will expedite the determining of fair rents? No doubt it will, but it is only three added to 12, and when you consider the amount of business that has to be done, I think the expedition will not be

sensibly felt. 3144. Do you know whether in your county of Antrim cases are coming in

weekly? I do not know that in the last few weeks there have been many of them, but there have been an immense number of cases. I know that a friend of mine.

who is an agent for some 40,000 l, or 50,000 l, a year, has 400 cases in hand. 3145. Chairman.] Four hundred coses not beard? Not one of them heard.

3146. Marquess of Salisbury. Are they all before one Court? They are hefore the county Antrim Sub-Commission.

3147. Earl Stanhope.] There have been really very few cases decided in county Antrim ; is not that so? I do not think there are more than 30 cases decided in county Antrim.

3148. Marquess of Salisbury.] I think you said the Sub Commissioners were not men of such character as to inspire the confidence of both parties?

As to the character of the Sub-Commissioners I do not speak at all.

149. I do not mean to say personal character? In character and occupation for anght I know, they may be men of very high

character, but they do not hold the position that one would naturally expect members of a Court deciding cases of such importance to hold. 3150. You do not consider them to be men of sufficient standing, as I understand you?

I do not. 3151. Do you imagine them to be men likely to be impartial between landlord and tenant? That is a very difficult question to answer; as I said before, I think we ought 28th March 1882.] Mr. Young.

to have had as a chairman of such a Court a man of standing sufficient at least to he a county judge.

meast to me a county juage.

3152. Do you think that the experiment of appointing laymen on the Court
has unswered?

I do not think it has.

3153. You would prefer it if the Court were entirely legal:

I would prefer if the Court were legal, and guided entirely by evidence in the
decisions at which they arrive.

3154. And not by walking over the farms?

Not by walking over the farms. In walking over the farms they make themselves valuers, and are guided by their own opinions, and what they hear from farmers on the spot, and I think that they are not qualified from their antece-

dents to become valuers of land.

3155. Do you think that much is said to them as they walk over the farm by persons interested in the case?

I never was present, but of course there must be. However, both sides are always represented; the landlord's agent or solicitor is present as well as the farmer.

 $3156. \ \, {\rm You\ have\ never\ been\ present\ at\ any\ of\ those\ walkings\ over?}$ Never.

3157. Earl Stankeps.] No doubt it takes a great deal of time to walk over two or three farms, and therefore it retards the decision of the fair rents?

They give very little time really to form a judgment of the value of the land; they would require to occurp four or five times the time they do to do that.

It is ridiculous to walk over a farm, and attempt to put a value upon it in contradiction of skilled valuers, who have actually valued it, spadiog every field. 3158. Lord Brabourne. The time of year has also something to do with it,

has it not?

The time of year they started was most unfortunate; it was the wettest part of the year.

of the year.

3150. There is a great deal of land in England, and I suppose there is in Ireland also, that you would judge of very differently according to the sesson of

the year at which you saw it?

Certainly there is a great deal of land in Irsland that it would be utterly impossible to put a proper value on in the wet part of the year.

impositions to plut a proper ratie on in the wet part of the year.

3160. There is a great deal of lead in England, and I do not know whether
it is so in Ireland, on which, on account of water, you can keep no stoci at all
until certain months of the year; then for the following months you can keep a
great deal of stock. If you have such land as that it would make a great

difference whether the valuers saw it in winter or in summer, would it not? Upon that point there is one case which has staumed rather a position of notoriety, that is the case of Adams e. Donneath. Upon the farms upon that estate, I suppose half the land is subject to flooding, and I believe when the Commissioners were there it was actually under water.

3161. Marquess of Salisbury.] Were they on the part that was under water? I think they kept off that.

3162. Lord Brabourne.] It would be impossible then to ascertain what would be the value of the lead in its good summer state, would it not?

I think it would; they could only form an estimate by being told what it

would graze in the summer. It was upon those farms that were flooded that the great difference as to the old rent and the judicial rent arcse. 3163. Earl Stanhops.] Do you think the position of county Antrim would be

3103. hart Stemmogra; 100 you turns the position of county Antrim would be improved if the emigration clauses were vigorously worked?

No.

(0.1.)

O O 3

3164. You

Mr. YOUNG. Continued.

3164. You told us just now that more labourers were residing on the soil than

were wanted for the cultivation of the land? Yes, but they are wanted for other purposes. During the last few years the weaving industry has been rather depressed, but there is a very large industry there in the weaving of linco. It is woven by hand in the cottages through the country, and gives a very healthful employment to the people, and maintains a much larger population than the land would otherwise support. I think it is rather a healthful state of things when it is prosperous. I think the people from the county Antrim who would want to emigrate can always find the means

of doing so themselves. There is no need of Government assistance there. 2164. Do the boards of guardians assist in the matter of emigration in your

neighbourhood at all? No, in fact there is no public assistance necessary.

3166. You think that when these rents have been decided, so far as the north of Ireland is concerned, everything will settle down quietly, as I understand? As far as one can see at present I do not think the value of land will ever

recover; so long as it is possible in 15 years for the reuts to he revised again no one knows how much more rent may be taken off. 3167. Lord Brahourne. And you may possibly have further legislation, may

you not? We have no confidence in anything now; we do do not know what may come

3168. In fact the only people benefited in your opinion are the legal pro-

fession, the solicitors, and valuers? The tenants have a large reduction of their rents also-

3160. You told us just now that you looked forward to ao agitation of labourers before long? We have not begun to fear that yet, but undoubtedly that must come; there

have been one or two meetings of labourers in our neighbourhood within the last two or three months agitating for judicial rents to be fixed upon their cottages.

3170. Earl Stanhope.] How do the labourers find leaders, and what kind of leaders have they?

Your Lordship would be astonished if you knew how much ability and intelligence there is among the weaving class, and they look upon themselves as labourers because they hold the same cottages that the labourers hold, and they would join them in any agitation that might arise.

[The Witness is directed to witndraw.

Ordered, That, this Committee be adjourned to Thursday next, at Twelve o'clock.

Die Jovis, 30° Martii, 1882.

LORDS PRESENT:

Duke of NORPOLE. Earl CAIRNS. Duke of SOMBESET. Viscount HUTCHINSON. Duke of MARLBOROUGH. Lord TYRONE. Duke of SUTHERLAND. LORD CARTSFORT. Margness of SALISBURY. Marquess of ABERCORN. Lord KENRY. Earl of PEMBROKE and MONTGO-Lord BRABOURNE.

THE EARL CAIRNS, IN THE CHAIR.

Mr. EDWARD FALCONER LITTON, q.c., is called in; and Examined, ee follows -3171. Chairman. THEIR Lordships are enxious to have the benefit of your

experience as one of the Land Commissioners upon certain points which have arisen in the course of their inquiry. In the first place, I should like to ask you what is the practice with regard to the number of cases that you allot to be tried by a Sub-Commission at a particular place?

The practice is that the circuits are divided among the number of Suh-Commissions the Government have given to us. I can give you a copy of the proposed circuits that I have brought over to show the present arrangement, or rather what it will he, on the 17th of next month.

3172. Have you brought that in a map, or is it a list?

I have brought it in a printed list; it has not yet been published, but it is for the next going Commissions, on the assumption that there will be 16 Sub-Commissions. Up to the present time we have had but 12 Sub-Commissions, but we asked for an additional four Commissions, and Her Majesty's Government have given us those additional Suh-Commissions, and this document will show your Lordships the arrangements that have been made for the next 17 weeks. The gentlemen who are to conduct the Commissions have not yet been allocated to the districts, but the towns have been settled, and the fixtures have all been made. (The document is handed in.)

3173. In the first place, how long will each Commission sit in a particular place?

The period varies according to the number of cases in the district. We have 17 weeks for the Commission to last; we then take the hooks in each county, and, looking over the unions, we make an inference as to the amount of business in each district, and we allot a fortnight or a week, or even three weeks, as you

will see, in some instances, during which the Commissions will sit in the different unions of the different counties. 3174. When you say 17 weeks, you mean that at the end of 17 weeks the circuit will be completed, and you will reconsider the matter then?

Yes, we hope to give a fortnight or three weeks vacation at that time. 3175. How (0.1.)004

dised by the University of Southampton Library Digitisation Unit.

30th March 1882.] Mr. LITTON, O.O. [Continued. 3175. How many cases do you assign to be disposed of at each sitting?

Heretofore our practice has been to give about 50 cases to each week; we propose to send down 150 or 180 cases to places where the time allotted is three weeks in the present list.

3176. According to your experience how many cases are got through in a week?

According to my experience I think you may say that about 35 adjudications are made in the week by each Sub-Commission; The whole list may be disposed of by settlement, but as regards the adjudicated cases, about 35, I think, has been the average work of each Sub-Commission.

3177. Then when 50 cases are assigned to a Sub-Commission the parties in all those 50 cases are bound to be ready, are they?

Yes, more or less. They cannot be certain that their cases will not be called on. Of course a person whose name is at the end of the list may speculate, and I believe they often do, that his case will not be reached, but it is quite possible

3178. Therefore they must be ready with their valuators or other evidence

that it may be reached, and they all ought to be ready.

that they may require Whatever evidence they may think proper to have. 3179. It has been pointed out, and of course it is obvious that a certain

amount of expense must be incurred in that, especially by those whose cases in the result are not called on? Undoubtedly that must be the natural and inevitable consequence, more or

less. 3180. Does it occur to you that that could be avoided in any way?

Not in the case of those parties who intend to fight their cases. If parties intend to come in and litigate they must take their chance of expense. Facilities might be offered to parties who are willing to come to terms without the necessity of litigation; but if persons intend to litigate, they must take their turn, and incur the expense.

3181. It is with reference to those that I was speaking; they have to be armed with valuators and witnesses, have they not? Certainly.

2182. Does it occur to you that there is any way in which a smaller number of cases could be set out as it were for each day with a greater certainty of their being heard?

I think not without leading to inconvenience, probably greater than the necessary inconvenience that your Lordship suggests.

3183. Supposing in disposing of the 50 cases you speak of, only 35 or a smaller number are reached, what is the result to the remainder? The remainder stand over to the next time the Commission visits that town.

184. Then the same expense must be good through again, must it not?

So far as the attendance of witnesses is concerned, it must, 3185. And the professional men?

Yes, there would be also the attendance of professional men.

3186. Marquess of Salisbury.] May I ask you if you ever alter the numbers or position of cases in the register? Never in the register.

3187. That is to say, that a case always comes on in the order in which it has

been put down by the party who served the originating notice? Except in cases where crictions have taken place. If we know that a man has been evicted, and he comes in under the Act to get an extension of time to redeem with a view to selling his bolding, we do then bring that case up out of its turn, otherwise we should have to postpone, or rather to extend, the period of redemption, until it was reached in the ordinary course. That would keep

30th March 1882.

Mr. LITTON, Q.C. the landlord on the one hand suspended, and it would also keep the tenant suspended, and therefore, having regard to the benefit of both, we take those eases out of their turn.

188. With that limitation you do not take them out of their turn?

3180. Lord Tyrone. Are the Sub-Commissioners obliged to take the cases

in the rotation in which you send them down to them? I should think they have a discretion. The list may have 50 cases on it, and if an application is made to the Sul-Commissioners to postpone to the end

of the list any case. I think they would have perfect discretion to do that; I do not know whether they do it as a fact, but I apprehend they would have a perfect right to do it, if it would lead to the convenience of the parties. 31 qo. Have you ever heard of any case being decided as its position on the

list hy hallot? Never.

3191. Chairman.] When you say they would have a discretion, do you mean on the application of one of the parties, or with the consent of both parties? I think they would exercise their discretion. If the application were made on the hearing of both parties. I think they would say it is convenient to hear these cases earlier. I will give your Lordship an illustratinu of how it might be must convenient; we send down a list of say 100 cases or 50, or of less; it may happen that the town where they open the sitting may he in the immediate vicinity of property relating to a case low down on the list, and the first case may be at a distance from that town. It would be manifestly convenient, if they thought proper to visit the holding, to postpone the case on the list, which relates to a distunt holding, and to dispose of the second in third on the list, which is immediately at land; and I think they have a perfect right to exercise that discretion.

3192. Viscount Hulchinson. What notice would they give of such postponement?

It would be done only on the application of the parties attending in Court at the sitting.

3193. Lord Kenry.] Might it not happen in that event that the case which had been postponed and which stood first might not come on at all in consequence of its having been postponed until after the case that stood lower down the list?

It might so happen,

3194. That would put the parties concerned in that case to very great

rpense, would it not?
Your Lordship means that it might so happen not to come on at all as I understand, and of course that might happen; but it is not likely I think; your Lordship will abserve that upon the document I have handed in, we have put a foot note, which is an indication to parties. It is to the effect that application may be made to the Sub-Commission on the first day of the sitting with a view to hearing cases in the different districts of the union for the convenience of the parties.

3195. Chairman.] Without saying whether the discretion which you speak of should or should not be possessed, it would obviously have the effect of making it more necessary that the parties in all the 50 cases should he ready from the very first commencement of the sitting to have their cases called on; is not that so?

Yes. 3196. Of course they do not know what cases might, under that discretion,

be adjourned? That is quite true. It is like any other judicial proceeding. Gentlemen who know there recards are on a circuit list must be all ready, though remanets may be made of their cases.

3197. Except, (0.1.) P P

Mr. LITTON, Q.C. Continued. 30th March 1882.]

3197. Except, as you know that we are not accustomed to a list of the magnitude of 50 cases in any court of law? That is so.

3198. Such a thing was never heard of, I suppose, as the parties being prepared at any moment to have 50 cases called on?

3199. Marquess of Salisbury.] Would it not be convenient if the power of grouping the cases was exercised by the Chief Commission, so that those of a

particular landlord might all come up together ? As a matter of fact they generally are so grouped from the necessity of the case, inasmuch as they generally come in the same district.

3200. The different tenants on an estate may have given notice at different times, so that there may be on various parts of the register tenancies belonging to the same landlord, and he may have to appear and re-appear, with valuators

and counsel to his own great cost? Outside the limits of the 50 or 100 cases.

3201. You would not require it beyond that? No, we never send down more cases than the number likely to be disposed of at the sitting.

3202. You would not displace them?

We would not displace them for that purpose alone.

3203. Chairman.] I was about to ask you whether you consider in Duhlin hefore you arrange the cases that are sent down, that grouping together as far as possible, of the cases on the same estate?

We do. The instructions we give to the gentlemen in charge of the books are these: we say, the Suh-Commission will have to sit at Athlone on the 17th of April; there is a fortnight allotted for that union; take up the back, go through the electoral divisions and group them by the electoral divisions. Your Lordships are aware that electoral divisions are sub-divisions of the unions, and generally speaking, all the tenants on one property come within it. Going through the consecutive numbers on the hooks we would take the first 50 or the first 150 names in order, and group them into order within those limits.

3204. Not merely according to the electoral district, but according to the estate, is that what you mean?

No, it is done more by the electoral division. If we found the name of one landlord with half a dozen cases in the same electoral division and the first of those cases high up on the list, and the second low down, we would put them hoth together. I am sorry I did not bring over a list which would have shown your Lordship the way in which we group the cases.

3205. Marquess of Salisbury.] We had a list put in hy Mr. Murrough O'Brien in which there were cases, the numbers of which had evidently been displaced? Yes, it would be done for that purpose,

Yes.

3206. Lord Tyrone.] Are the pustponed cases heard first when the Commission sits again? Yes, they are, they go to the top of the next list.

3207. Chairman.] The remansts are taken first !

3208. We know that there are no pleadings in these cases?

No; there are not.

3209. Is any course taken, or do you think any course woute be desirable without pleadings, to inform the landlord, as he is in the position of defendant in almost all these cases, what the case of the tenant will be with regard to his claim as to improvements? No; my colleagues and I considered that question very carefully, and

having

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having regard to the asse	ets of it on both sides, we	came to the conclusion that

the course we adopted was the wiser course of the two. 2210. What was the course you adopted?

The course of not requiring particulars to be stated, \$211. What led you to adopt that course?

That I do not think I can answer; at least I must respectfully decline to

answer, because to do so would be to enter into the reasons which influenced the exercise of the discretion vested in us by Act of Parliament,

3212. You are aware, I suppose, that under the Act of 1870, the tenant making a claim in respect of improvements had to specify the improvements, and

the time at which they were made? Yes, I am. That was for the purpose of being paid the compensation for disturbance.

3213. We understand that in cases where an application has been made in Dublin by the landlord, that the tenant should be ordered to give this information. an order has been made to that effect ? Yes, I was the Commissioner before whom the first application of that kind

was made, and I did not hesitate to make it for one monent. I thought it was fair and reasonable. I may mention to your Lordships what I think illustrates, or rather establishes, the wisdom of the course adopted by the Commission. Since the 20th of October, when we began to work the Act, there have been only 16 or 17 cases out of the whole number of cases in which applications for particulars have been made to the Court, and the inference that I would draw from that, as a fact would be, that the course of proceeding fixed by our rules has worked satisfactorily.

3214. We have it in evidence, that it has not worked satisfactorily, so far as the parties are concerned; but may not the reason why so small a number of cases occurred in which the application was made, be this, that the application involves the costs of counsel, and has to be made on an affidavit, and on an argument in Court ?

I think the reason probably why so few applications have been made is, that it was found after the first application that the Court was prepared to make the order in reasonable cases at the instance of the landlord, and that the costs would be imposed upon the tenant if he did not comply with the preliminary uotice asking for those particulars; and I think the particulars have been given in nearly every case when demanded.

3215. Have you any information as to cases in which particulars have been asked for and given by the tenant without an order of the Court? No. I can give you one case in which particulars were asked, and, I believe,

given, but such cases would not come hefore the Court-

3216. You only know of one case in which it has happened? My inference would be that it has happened in numberless cases, but I cannot

give you any. 3217. Supposing that the habit has been, when such notice has been given,

to decline to comply with it, you have only in your experience one case of a different kind? Yes, I was not aware of it until yesterday. It turned up in the file of papers

that an application had been made by the landlord, and I presume it was complied with, because no order was applied for. 3218. Supposing it not to be complied with, the landlord must apply to the Court in Dublin, must be not?

Yes, not of necessity by conescl, but on a solicitor's motion.

3210. On an affidavit?

There must be an affidavit as to the propriety of it.

3220. And I suppose he must give notice to the other side? Certainly. 3221. When PP2 (0.1.)

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3221. When an application for particulars has been refused, and an application to the Court for an order made necessary, has the course been adopted of making the tenant pay the costs?

That would depend upon whether or not the notice asked for too much, or only enough. If the notice went on to ask for very detailed particulars, which were unreasonable in our opinion to he asked for, or given, and which it was impossible for the tenant to have at hand, the tenant would not have to pay the costs.

2222. I do not propose to ask you such an improper question as what you would do in a certain case, but, as a matter of fact, have you ever ordered the tensat to pay the costs?

As a matter of fact I can hardly say. I think both parties bore their own costs.

3223. You do not remember say case of the kind? No, not with certainty.

3224. Do you think it desirable to leave to the landlord the serving of notices on the tenant requiring particulars? The only way I can answer that question is this, we think that the course

provided for by the rule of not requiring those particulars to be given in the first instance is the wiser course.

3225. Leaving the landlord to apply to the Court for an order that particulars should be furnished? Yes, after having first applied to the tenant,

3226. What is the time that clapses, or that may clapse, between the

originating notice and the trial? That would depead altogether upon the order in which the preliminary notice was served or filed and the number of cases in the county.

3227. I mean supposing there were no arrears, what length of time would clapse?

Supposing there were so arrears, it would certainly be within the limits of one of these circuits of which I have spoken.

9228. Does it appear to you that there would then be time for the landlord to serve notice on the tenant for particulars, and to apply to the Court if they were refused? I think there would be quite sufficient time. Every landlord has notice of

his case coming on as a contentious case by the service of the originating notice; he has generally three weeks' notice when the case is fixed for trial; we give as much time as we can.

3229. Is the three weeks' notice given by rule? No, it is by office arrangement. In the earlier period of our work of course

we were not able to give so long a time. In that list before your Lordship the notices went out yesterday to all the first towns on the list; at least, that was the direction given.

3230. Up to what time will that he? That will be up to the 17th of April.

3231. During that interval would there he time for the landlord to apply to the Court for the tenant either to comply with the application or to refuse, and then for the landlord to apply in Dublin?

I think so. 3232. Would the order go on to say that he should still have an interval

after the information was given before his case was called on for trial? If the landlord on the application pointed ont that the case was in the list for a particular day, and that there would not he time to wait for the reply from the tenant, and to give him an opportunity of investigating its correctness, there would be an order sent down to the Sub-Commission not to go on with that case. This is the form of order made on the application of the landlord. (The document is handed in.)

3233. This

Continued.

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3233. This does not go on to say snything about postponing the case? No; that addition is allowed to be made by the parties when they apply for the order. A gentleman will say, this case is in the list for next week, and after giving the 24 hours, or 48 hours, or three days, as the case may be, and

which would be determined at the time of the hearing for complying with the order, it will be impossible to investigate it, in that case we would say, that is quite true, and we must take this case out of the list and postpone the hearing of it 3234. We understood from some of the evidence that the Court in Dublin

had stated that they would not make an order for these particulars in cases below a certain value; is that so? Yes : I stated so. 3235. What was the limit of value?

I think it was a valuation of 10 L

prepared to do it.

cases adjourned.

(0.1.)

3236. Why should there be a difference between cases under 10 L and cases above 10 /. ? That, again, rather trenches upon the question of discretion, but the reason as it

occurs to me is plain. The proceedings would be so harassing to a vast number of tenants of a poor and ignorant class (who would be utterly unable to comply, or if put under terms to comply, could only give information that could be of no value to the landlord), that in the exercise of our judgment we came to the conclusion that we would not make it a general rule, but he guided by the particular circumstances of each case.

3237. Pray, do not imagine that I wish to canvass anything you have done in the exercise of your judgment. I am only speaking as to the policy of the thing as a matter open for consideration now. Does it occur to you that, if above any particular value there is a necessity of giving this information to the landlord, the landlord would not be equally in need of the information in cases below that value?

The way I answer that is this: when I speak of having expressed an opinion that it ought not to be given below 10 L, it was not as a rule, but as a general principle. If there was a case below 10 L in which the facts justified the order, we would make the order; at least, speaking for myself, I would be quite

238. According to the circumstances of the particular case, you say?

Quite so; it would be only a question of discretion. It was only a general observation; it was not either an order or a rule, and possibly it could not even be called a judgment.

3239. Would it not impose a difficulty in the way of the landlord making the application, which you thought it was right that he should make to the tenant asking for the information, if the tenant was made aware that the Court would not look favourably upon an application to compel him to give it? Possibly it might.

3240. Marquess of Salisbury.] Can you see any mode of redressing what would be the obvious disadvantage to the landlord arising from this decision. presuming that you continued to adhere to it with regard to the small holdings If I was satisfied that there was very great inconvenience to the landlord, I would try to consider how we could meet it; but, according to my present information, I do not believe that in one case in 1,000, or in one case in 5,000,

it would affect the landlord to the extent of 5 d. 3241. But according to the evidence we have had here, certainly those who represent the landlords appear to look upon it as a considerable difficulty?

It is a sentimental gricvance, I think. 3242. Earl of Pembroke and Montgomery. Do the Sub-Commission ever allow adjournments when the landlord says that evidence is produced which he has not heard of before, and is not prepared to meet? It is quite within their power to do so, and I rather think they have had some PP3

3243. That

30th March 1882.] Mr. LITTON, Q.O. [Continued.

3243. That has bappened, you think?

800

3243. That has appeared you have the power to do it; in fact, we have given to them all the powers we have ourselves, with certain limitations in regard to the cases committed to their charge.

3244. Chairman.] What is the difference in principle, as it appears to you, between proceedings under the Act of 1870 and proceedings under the Act of 1881 or proceedings under the Act of

between proceedings under the Act of 1870 and proceedings under the Act of 1881 as regards this matter? I think they are wholly dissimilar. Under the Act of 1881 we have to recognize a continuing relation between the landlord and tenant; the one gets a

perpetuity, the other was a mere clearing out of the teaant.

3245. That I am quite aware of; but I mean as regards the improvements;

3345. That I am quite aware of; but I mean as regards to e improvements; is not the question of fact to be investigated exactly the same in the one case as in the other?

That is true; but it is a question whether the policy of the arrangements under the Act of 1870 was a wise one. The class of cases that came into the county courts with regard to compossation for crictions were of a much more substantial class than the average class of cases we are dealing with, and it was a matter of regret, I believe, in some cases that the course adopted under the Act of 1870 was adopted. I fancy if we were frauing rules under the Act of 1870 for the

purpose, we would not require those particulars to be given.

3246. That would be the view you would take of the rules under the Act of
1870?

1870 ? Yes. 3247. But there is no difference in point of principle, I suppose, between the

two? In point of principle, so far as the Acts proceed on the same line, there would be no difference; but of course, so far as the policy of the two Acts varies, there might be a difference. Our object was to make the Act as easily worked as possible.

32.8. I understood that you declined to give the reasons which led you to adopt the course you did, we shall be very glid to bear the reasons if you wish to give them, but then it must be in answer to my questions;

I prefer to take your Lordship's suggestion, and not enter into the reasons.

3249. We-should be most buppy to hear them, but we should like to hear

them fully if we hear them at all ?

I think it is better that I should decline to go into them; of course I would be very happy outside the Committee to state any reasons.

3250. You will understand we shall be very glad to hear the reasons here if you like to state them, in answer to questions put to you, but we should not press you in the least if you have any desire not to state them?

I thank your Lowiship.

3251. We understood that, in the first instance, in the instructions and forms which you sent down to the Sub-Commissioners, you require them to state, as part of their fadings, the value they put upon the tenants' improvements and interests?
Yes, that is so.

3252. That is no longer part of the information they are required to give,

is it?

There was a change made, and from that time to the present that information has not been insisted upou. It is proposed to get that information, as far as possible, in future returns again. There were great difficulties in the way, but

we intend to try to do it so far as we can in the future.

3253. I suppose I may infer from that, that you think there would be very considerable advantage, if it can be done, in obtaining that information? I am doubtful about that. We do it rather to show that we are axious to meet the views of persons who place a value apon it. We think it will not lead to any very practical results of a satisfactory character, or, at all events, that it

may

Continued.

cluded good will.

may not. First of all, we do not think that we can get accurate information in all esses; in the second place, we think that it is extremely hard to put a money value upon them and then to fix a reasonable relation between the money value

and the rent. 3254. But without at all disputing what you suggest now, namely, that it would be very difficult to do it, is it not one of the difficulties that the tribunal

has really to cope with and to meet? Yes; and it would be a matter of absolute propriety if the difficulties of the

tribunal in fixing a fair rent were defined and could be reduced to a mathematical or arithmetical calculation.

3255. But, is it not a matter which the tribunal ought to have in their own mind before they come to a decision?

Yes, they undoubtedly ought. 3256. And does it not occur to you with regard, for example, to the question

of appealing, either on the part of the tenant or on the part of the landlord, that if it could be done, that it would be very desirable to have the two elements kept distinct? Yes. I think the more information we can possibly have in our adjudication,

or note of adjudication, to enable the parties to judge whether they can appeal or not, the better.

3257. For example, a party might say, we are quite satisfied with the gross rental which is put upon the holding, but we are not satisfied with the allowance as regards improvements, or vice versa?

Yes; it is one of the difficulties which we would wish to overcome, and as to which there are considerable obstacles. I may mention that between the North and South of Ireland it would, of course, require a different return. In the North of Ireland, on those estates in districts in which the Ulster custom does prevail, it would be regulated, not by the amount of money value of the improvements, but by the custom, because the custom includes both the improvements and the good will. We would require a separate form for estates subject to the custom, and for estates not subject to the custom, and we have those very forms before us in course of preparation.

3258. Marquess of Salisbury.] Do you mean to say that you would not separate the goodwill from the improvements?

Not where the custom prevails, because the evidence covers both. They are so coonected with each other that it would be impossible to distinguish how much of the value under the estate rule included improvements, and bow much in-

3259. Chairman.] Would your form propose to set the amount of the customary value as against the rent?

No; our form would only ask for the fact to be stated. 3260. Marquess of Salisbury.] You would not read the "customary value" in Healy's clouse, instead of "improvements"?

No; clearly not. 3261. Chairman.] My question at the outset had more particular reference to the improvement. Let us take a case, not in the north, if you please, for the moment, in order that we may be quite sure we are upon the same point. The form, I understand, as it originally stood, would have led the Sub-Commission to put the value upon the whole as it stood, without reference to improvements?
Yes.

3262. And then, on the other hand, to say what is the allowance that ought to be made to the tenant for improvements which be had made himself?

3263. And their economic value, or their value? . Yes.

... (0.1.) 3264. That PPA

30th March 1882.] Mr. Litton, q.o. [Continued.

3264. That would be so in places not subject to the custom?

3265. What would the difference be with regard to places subject to the custom?

custom:

We would ask the Sub-Commissioners to note the value of the tenant's improvements included in the amount fixed by the custom as including his improvements and goodwill, that is the value of his tenant-right.

2266. Marquess of Abercorn.] Do you mean that if the tenant can get 25 years' purchase, we will say, for his farm, that would in some degree tend to pay

for the improvements?

It would include the improvements, and, of course, that would be assuming that the 25 years was according to the estate rule, which, of course, your Grace is aware, is limited in some cases to 10 and in some cases to five years.

is aware, is limited in some cases to 10 and in some cases to nve years. 3267. Chairman.] The particular clause which says the tenant is not to be charged rent does not speak of anything but improvements?

Quite so. 3268. How would you apply that in the north of Ireland?

gabe. How would you shop? Until the most of the same upon now, we only propose to ask for information as to the fact. We do not propose to ask in tennati-spit districts for the mosey value of the improvements intendiction that the most years of the improvements intendiction to the smooth by which the rest ought to be reduced by resont of such improvements, we only propose to ask that the whales of the itemat right should be offered to the state of the count of the proposed to the state of the transit or of the transit or proposed to the state of the transit or offered the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the transit or in order to the state of the st

3269. I do not think I quite understand your answer. The form, in whatever way you would prepare it, would bring out the fact of the economic value of the improvements made by a tenant?

We will take a particular case out of Ulster; it might find that the value of the tenant's improvements were 100 L.

3270. Do you mean the gross value?

This gross value of the tenant's improvements, it might also find the far value of the holding in the landlust's hond; the gross value in the first instance. The first factor in the equation would be, that the farm is worth sol. a year as it studie; then, that the tenant's improvements are worth 100 I, and it would leave the rent to be a matter of deduction. It would not necessarily follow that the rent was to be reduced \$2, 10.1, or 3 L.

3271. I am not speaking of what will bappen when those farms are altered, but at present, what is the return which the Sub-Commissioners make to you of

the work they have done?

304

The practice in relation to that is that, every day, it ought to be, but certainly every week, each shelt-commissioner sends up its note of significations to the head office, and those adjudications are entered into the books. They are formed into files if in a speak takes place within a formight, the time limited for appeal, then the state of the state

3272. The return which they make to you is merely a tabular return? I will show your Lordship what it is. I brought this as an example (producing the document). This is a case in which an appeal has been adjudicated upon. That document shows the way it which it comes up from the Sub-Com-

mission to us. It gives the names of the witnesses and the other facts. (The document is handed in.)

3.73. Lord Brabourne.] Is each document recorded so that 15 years hence it could be referred to?

it could be referred to?
Yes, each document is put with its own file.
3274. Chairman.] Is there a separate document for each case?

Yes;

3283. In

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cannot go behind that."

SELECT COMMITTEE ON LAND LAW (IRELAND). Yes; separate documents and a separate file. If an appeal comes in, the notice

of appeal is put upon the same file along with the documents, and the notice of the final adjudication, and also the valuer's special report, or confidential report to us when we are hearing the appeal. They are all filed, and that which I have handed in is an example of the way in which the papers are kept. 3275. Lord Brabourne.] Are the improvements which have been taken into

account specified there? No. only the result. 3276. Marquess of Salisbury.] So that in 15 years' time there would be no

portunity of ascertaining what the value of the improvements was now? No; I think they might be estimated, but they would not be put down specifically.

3277. Lord Brabourns. What is the safeguard against the landlord being again charged for improvements that he had paid for in this present valuation? The safeguard would be that in 15 years' time it would be stated that this rent was ascertained in respect of all prior improvements; and it would be said, "the rent ascertained 15 years ago took into account all past improvements, and we

3278. Suppose that the landlord and tenant were changed, and that you had no record to show what improvements had been taken into account, how would

it be found out? We have a record showing that 15 years ago, we will assume, so much was ascertained to he the gross value, and so much the net fair rent, and that that covered, or should be deemed to cover, all prior transactions up to that date; of course they would not be specifically mentioned.

3279. Chairman.] But suppose it became a matter of controversy 15 years hence or more, whether a particular improvement (improvement "A") was made in the year 1881 or in the year 1882, how would that be determined; the adjudication being hetween the two years? Between the two adjudications?

32So. Assume that the adjudication is made, we will say, on the 31st of December 1881, and, as you say, clears everything up to that date, but 15 years hence how could you tell whether a particular improvement was made in 1881 or in 1882?

I do not think anybody could complain, considerior the law as it now stands that if a particular improvement is made by the tenant or by the landlord he should keep a record of it for the 15 years. The case your Lordship puts could not be noticed on the adjudication, because it takes place after the adjudication, and therefore must be a matter of evidence when the subsequent adjudication takes place 15 years hence.

3281. If the improvements which had taken place up to the adjudication were included in it or noticed, then, of course, nothing could be added to them. It would be known, you think, that any improvement additional to that was made subsequently?

It would; but considering the manner in which the attention of both parties is drawn to the necessity of preserving evidence of subsequent improvements, there could be no difficulty about it; and the estate book, or the account book, on either side would be the proper way for each party to retain their evidence for the next adjudication. There would be a certain period behind which no evidence would be gone into, because any improvements made up to that time would have been included in the deduction from the gross to the net value of the holding when the fair rent was previously arrived at-

3282. Do the Sub-Commissioners, in their notes, take any note of the improvements which have been brought before them?

I apprehend they do. It is their duty to take fair notes, such as any judge would be expected to take in hearing a case. The directions on that subject were, I think, handed in to your Lordship.

(0.1.)

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3283. In practice, have you observed whether their notes contain a record of the improvements?

I never saw their notes. 3284. Marquess of Salisbury.] Do not they send their notes up to you?

3285. Lord Tyrone.] Then, we may suppose that the notes will not be

forthcoming in 15 years? I think you may safely take that for grauted. Probably if they were forthcoming they could not be read.

3286. Barl of Pembroke and Montgomery.] There is another question in regard to what you said just now. It seems to me that, if when you are trying a holding 15 years hence you are going to take the gross value of the tenants improvements as now recorded as a basis from which to start, it would work very unjustly, because the improvements, which are very properly allowed for now, would be absolutely exhausted at the eud of 15 years, would they not?

Yes; it is open to that observation, and I think it is a just observation,

3287. Lord Brasowne.] Still we get this, that there is no record, either in your office or in the Sub-Commissioners' office, of any improvement on any particular holding on which a judicial rent is fixed now?

That is so. There is no record beyond what appears upon these documents I have before me.

3288. In 15 years, you would again have the same conflict of testimony between the handlord, and his tenants, and the witnesses, as you have now?

I do not quite concur in that way of looking at it. I do not think there would be the same conflict of evidence. In point of fact, I do not think the matter ought to be re-opened after the 15 years,

328q. How would you prevent it?

It could be at once said that the adjudication here has taken all the antecedent improvements into account. If it could be shown that there had heen recent improvements effected by the landlord, the landlord would, of course, have the right to get credit for those in fixing the new rent.

3290. Suppose a tenant comes and claims improvements as having been made in the year 1889 or 1883, and the landford says "No, they had been made before ": if you have no record to show that they had been taken into account before, how are you to deal with it? The tenant coming forward 15 years hence, and saying they were made in

1883, would be bound to show, (or the landlord would if he were claiming them), affirmatively that they were so made, and made at his expense.

3291. Duke of Norfolk.] Then there would be the same conflict of evidence, would there not? As regards facts subsequent to 1881, we will take it that it would be so.

3292. Lord Tyrone.] Would not that make another block in the Court in

15 years' time, or would it not be calculated to do so? I hope in that time people will have the sense to settle these matters.

3293. Then it is a mere matter of hope? No; it is more than that.

3294. Chairman.] We will come to the blocking in the Court afterwards; I should like to ask you this : with reference to the right of appeal, do you consider that a fortnight is a sufficiently long time?

We have found it to work very well, but we have extended the time whenever anyone has asked in ordinary cases. A gentleman will come up, and say, "We have overlooked the time for appealing; will you give us leave to appeal; we say, "certainly."

3295. That requires an application to be made? It does. 3206. And

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30th March 1882.7 Mr. LITTON, Q.C. 2206. And does it require notice ?

3297. Do you give the leave to appeal az parte? Yes.

3298. Without hearing the other side?

In the case of appeals from Suh-Commissioners' decisions, certainly; we have

never thrown any difficulty in the way, and have not found any complaint made with regard to the fortnight. 2200. Marquess of Salisbury. Have you had many applications after the

time has clapsed? I do not think there have been more than a dozen of them.

3300. How many of those have been refused? None. I believe.

3301. Chairman.] There has been some question as to whether your rules

provided for it; is it done under a geogral rule, or is it done under your general authority? It is under our general authority, I think,

2202. What is the practice where an estate is being sold now in the Lauded Estates Court ; do you give any priority to applications to fix a fair rent on an estate of that kind?

Yes; we would take those cases out of their turn, if I remember rightly, there was an application of that kind in one instance. 3303. As to notices, to third parties, of an application to fix a fair rent, is any

notice required to he given now to a mortgagee or to a head-landlord in the case of a middleman No, we do not require a notice to be given ; without our attention being

called to it, we have no means of knowing it. 3304. Of course you have no means of knowing it, and there is nothing in

the rules which provides for the notice being given ? No: nor to incumbrancers either.

3305. My question included mortgages? We cannot undertake to give notice to incumhrancers. We have had upplications from both mortgages and annuitants, who represented themselves as the substantial owners of the estate by virtue of their incombrances, and with a right to intervene; and they have a right to do that under the rules.

2206. Did they intervene? Yes.

3307. And they were heard? Yes; we have also had some cases where parties intervened under the 21st section; that is the lease clause.

3308. Marquess of Salisbury.] Have such applications as those to be brought before you in open Court, or do you take them as a matter of general husiness? An application of that kind is Court husiness, but if the Court is not sitting, and any centleman comes to the office with an application of that kind, which may be a matter of urgeocy, the registrar generally comes up to one of our rooms,

and we make the order then and there for him. 3309. That would apply to applications for leave to appeal also, I suppose? It would: I have done it myself in chambers.

3310. Chairman. In the case of a tenant for life with a leasing power, and the power is to lease at the hest rent that can be obtained, is any notice given to the remainder men?

In regard to leases, the tenants have no right to apply to us at all, except to set aside the lease, 3311. I refer to a case where there is no lease actually made, but where the

proceedings Q Q 2

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proceedings in the Court would have the effect of creating a holding for 15 years; suppose there is a texant for life with a leasing power, and that power is to he excreised by obtaining the best rent that can he obtained, do you consider the tenant for life in that position represents all the interest? Yes, we do; we deal with him as the owner of the inheritance for the pur-

poses of the Act; that is, for fixing the fair rent.

3312. It has not come to be decided yet, I suppose, whether the remainder

3312. It has not come to be decided yet, I suppose, whether the remaindermen can interfere?
That is so; with regard to judicial leases or fixed leases, it is otherwise, because there the remainder men get notice.

3313. Where the parties by arrangement propose a judicial lease, you mean? Yes, because that extends over 60 years and upwards; but as regards the

Yes, because that extends over 60 years and upwards; but as regards the statutable term it is not so.

3314. You were speaking just now about the block in the Court; what is the

presont state of things up to the last information you have to give?

The figures are these. There have been disposed of altogether, up to the 25th March, 9,491 notices.

3315. Viscount Hutchinson.] That means both in and out of Court, I suppose?

Yes.
3316. Cases adjudicated upon and settlements, I suppose?
Yes; I will give you the figures. Up to the 24th February (that is a month

Yes; I will give you the agures. Up to the 24th February (that is a month ago) the numbers were 5,386.

3317. Chairman, | And how many have been disposed of altogether?

3317. Chairman.] And how many have been disposed of altogether? Now there have been disposed of 9,491. There has been a very large accession or increase of work, amounting to very nearly 4,000 cases in the month.

3318. To what do you attribute the greater ratio of decisions?

The days are longer; the men on the Sub-Commissions can work more confidently together than at first, when they were strangers to each other; and

there is a greater disposition to settle cases.

3310. Is the increase in the settled cases, or in the cases decided in Court?

I will give you the figures as far as I can. Of the 9,491 cases there have been disposed of by adjudications 4,135; of these 4,135 rents have been fixed

in 3,511 cases, the difference being those in which there were dismissals or and withdrawal.

330. How many of those were before the 24th of February?

I am not able to state that. The rents fixed by way of agreement number 4,338, so that, in point of fact, the surrements have exceeded the adjudications.

,303, so that, in point of fact, the agreements have exceeded the adjudication 3321. Marquess of Salisbury.] Those are cases, are they not? They are.

3322. Have you got the values? No, I have not.

3323. Chairman.] Are you able to say whether the increase of which you speak during the last month has been in the cases where there have been settlements, or in the cases which have been heard?

I think there has been an increase in both.

3324. Lord Brabourne. Can you tell us the number of appeals?

Yes, I can tell you the number of appeals also. Up to 24th Formary there were 764 speaks, out of 2,825 destines. That would be about one in three Two in seven, I think, would be the exact proportion. Up to the 25th March three have been 1,967 appeals not in 3,311 adjidentions, which is about the same proportion. Of those, we have disposed in Belfast of 52; we suspended our appeal proceedings tells, pending the appeal from our own desible in our special proceedings tells, pending the appeal from our own desible in the control of the seven of the speaks of the five speaks the five speaks when the belief we desire the pending the pending

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posed of out of 1,138 cases; 64 of them were cross appeals, and therefore would not count; 38 of them had been from the County Court Judges, and not from our Sub-Commissions; that would leave the total number of appeals 1,036, out of which 170 have been disposed.

3325. Chairman.] Disposed of or withdrawn? Of which 45 have been withdrawn.

3326. Marquess of Aberown.] Did those appeals come principally from the tenants or from the landlords? Principally from the landlords, in the proportion of four to one I think.

3327. Chairman.] Have you any information as to the circumstances which led to the withdrawal of so many as 45?

No.

3328. Were they governed by other cases? They may have heen, but we have no means of knowing. An appeal may be called on and the parties may say they have settled.

3329. Lord Brahourne.] That leaves about 850 to be disposed of now? Yes, and we expect to get through those by the 10th of August.

3330. Duke of Marlborough.] Can you state the total number of cases on originating notices listed for hearing at the present time?

The number of cases on our hooks that had come in up to the 24th February, is 74.588; on the 25th of March there was an increase of 1,271 in the mouth, and, as I have mentioned, there have been disposed of 9,491.

3331. Chairman.] Was 1,271 cases the monthly summary for March? Yes; there is a material falling off in the cases.

3332. What was the monthly number before ?

I cannot give you that.

3333. Marquess of Salisbury.] One thousand two hundred was the number of your additional cases; what was the number of your additional decisions in the month of March?

About 4,100 were disposed of one way or another.

334. That was not in March, but the whole up to the end of March? There were disposed of hetween the 24th Fehruary and the 25th March 4,100 cases.

3335. Against 1,200 added to the list?

3336. So that you are gaining on them? Yes; we expect to increase the ratio very much during the next 17 weeks by

having the additional four Sub-Commissions which the Government have now given us, and by the lengthening of the days, and also by the increased knowledge which has been gained of working the husiness.

3337. Do you know how many tenants in occupation in Ireland are subject to the fair rent clauses? I have no actual knowledge, but I can speculate upon the probability, and I

should say about 75 per cent of the whole; that would be about 380,000 holdings.

3338, Chairman.] I suppose you are of opinion that it is desirable, if it can be done satisfactorily, that as many as possible of these cases, where the originating notices have been served, should be arranged by settlement?

We are most desirous for that, and forward it in every possible way.

3330. Complaints have been made to us that the parties do not know on what hasis to settle; that they do not know on what principles the Sub-Commissionera proceed in exercising the task assigned to them, and that if they had some further knowledge of that they would be able to settle out of Court very much more easily; what is your opinion upon that point? I do (0.1.)

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I do not concur in the suggestion. I think they know perfectly well the general principles as far as they are capable of being defined. Of course where there is a strong feeling in the district resulting from social and political metters altorether outside the contention, cases will not be settled. The tenants are not allowed to settle in some districts where the landlords are willing to do it Landlords are not willing to do so, perhaps where the tennuts are willing to do it, and those are conditions which no adjudication of a Court can very much influence

3340. It has been stated in evidence to the Committee that there were many persons, to the knowledge of those who were giving evidence, extremely anxious to settle, but that they were embarrassed as to the mode of settlement they should arrive at, because they were not sware of the principles upon which the Sub-Commissioners had decided or would decide if their cases came before them? I think if the two parties are disposed to a settlement (and you must have

hoth parties disposed towards settlement before you can settle), they would have no difficulty in settling the principles between themselves. 3341. In whot way does it occur to you that they could ascertain the principles

on which to act i I do not think it could be defined; it depends upon a number of various

conditions, and even feelings and sentiments that must exist between the landlord and tenant. If they are disposed to settle they will yield to a settlement; whereas if they are not disposed to settle, except on adjudication, they will determine to have it on either one side or the other. Some tenants are very jealous of their landlords, and in other cases landlords are in turn suspicious of

3342. That may cause a difficulty in the parties coming together and agreeing upon the same thing; but suppose you have agents and others, who tell you that they cannot, in their own mind, determine upon what is a proper proposal to make, not knowing the principles upon which the Sub-Commissioners and what would you then say?

I think they have the principles laid down, generally speaking, in the Act of Perliament as well as any Commissioner could lay them down; that is to say, they are to have regard to the interest of the landlord and the tenant respectively, and determine what is a feir rent. Landlords ought to he able to apply that, at all events.

3343. Do you consider that a definition of principle; is not that merely a statement of what they have to do?

Yes, it involves both I think. It is very difficult to lay down the principle. The principle, I presume, is the doing of what is fair and just, according to the terms of the Act of Parliament.

3344. Have any of the Sub-Commissioners in any case attempted to define the principles on which they were deciding? I am not aware, excepting from the public papers, that they have specified

more than we have done ourselves, the principles upon which we arrive at a conclusion. It is almost an impossibility to extract e principle applicable to every cese. They must deal with the cases each upon their own merits, and apply the Act of Parliament upon the evidence, which veries in almost every case; and I do not think it would be competent to any man either to lay down a rule or extract a principle heyond the general one laid down in the Act of Parliament.

3345. In proceeding to determine what is a fair rent, do the Sub-Commissioners themselves, or any of them, act as valuators?

They decline to call themselves voluntors or valuers, but they hear the evidence, and then they look at the farm, and form their own judgment, applying their knowledge, regulated by the evidence, to the facts of the case.

3346. Do you mean that they depend upon the evidence which is given before them, and not upon what they see? No, I think they disregard a great deal of the evidence that is given before them hy reason of what they see, and in that way they combine the character

both

3358. Chairman.]

Mr. LITTON, Q.C. [Continued.

both of valuers and judges. They are more like a view-jury, taking the law or the rejection or admission of a particular fact, from the judicial colleague?

3347. If that is so, what is the reason why, as we are told, on viewing the land, one of the Commissioners does not go with them

The two laymen, I understand, always go together. The legal gentleman is not there for his technical knowledge in regard to land, but for his technical knowledge with regard to luw.

2248. If they go to correct the evidence by what they see, would not be be the person of all others to do that, from his knowledge of law? No; the object with which they go is to examine the sail, to examine the

aspect of the holding, and to see what condition it is in; whether it has been deteriorated or improved, and the condition of the fences, and in that way to check the evidence which is, in many instances, very unreliable with regard to value.

3349. You say they go to check the evidence; but how is it that the person who is supposed to know most about the evidence, that is, the legal member, does not go to assist in checking the evidence?

They do not take evidence on the holding; it is unly the evidence of their own eyes.

3350. For the purpose of checking the other evidence? Yes; the other evidence has been already given and probably checked where it required to he checked.

3351. Then the legal member has not got the power of checking the evidence hy what he sees? No.

3352. And the other two have that power? Yes, that is so.

3353. So that the two sections of the court are determining upon different data It does not necur to me that that is so. In one aspect of it that view may

be urged, hut having heard the evidence, and having had it explained to them by their judicial calleague that they ought to exclude certain statements on one side or the other, they then go to see what the actual value of the building is in their own opinion, and then they discuss it altogether when they get home, I pressme, and the Sub-Commissioner has his notes before him and gives explanations and points nut what is the proper course to take, and they so arrive at a result which they deem to be the true one under the circumstances of the case.

3354. Have the Chief Commissioners themselves, in any appeals before them. viewed the holdings?

Nn; in no case. 3355. Have they in every case sent valuators?

Yes. 3356. Marquess of Salisbury.] Have you before you, in deciding an appeal, the evidence or impressions of the lay Commissioners of what they see upon the farm?

No. 357. The whole value of thuse impressions are then lost in the re-hearing? Yes, we re-hear the case. We allow additional evidence to be given; we do not restrict the extent of the evidence, and we have, in addition to that, the confidential report of our own valuer. I have brought over one of those reports for your Lordshipe to see. It is given on a printed document which gives the townland and the area of the holding in Irish and English acres in some cases,

the rent and other particulars. (0.1.)

[Continued.

Mr. LITTON, Q.O. 30th March 1882.

3358. Chairman.] These documents were, I believe, handed to the parties. were they not?

They were.

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33.59. There is nothing private in them? No, there is nothing private in them. That is the complete file of a trace-

action which ended in an appeal. (The documents are handed in.) 3360. Lord Brahourne.] If land is deteriorated by had farming, and the farm

has become a bod bolding, is that taken into account in fixing the rent; and is a lower rent fixed on that ground? No, it is rather the other way, I think; a man who has deteriorated his holding by bad farming, gets no sympathy at all.

3361. Is his rent raised? I do not say it is raised beyond the actual rent he is now paying, but it is

quite possible it might be. 3362. Lord Tyrone.] Even if the land was so deteriorated as not to make it

worth the money?

I think so. We would regard a man coming into Court under those circumstances as entitled to no favour, and, probably, what would be done would be to

say, "You must stay as you are; we will give you no relief"; because we have a right to refuse any application, having regard to the conduct of the parties.

3363. Chairman.] Who is the gentlemen who signs this report? Mr. Grav.

3364. It seems a very business-like and detailed report, and points out the different things that he had to consider?

3365. What would be the difficulty, may I ask, of the Sub-Commissioners putting their views on a document of that kind? If Mr. Gray can do it, would

there be any difficulty in the Sub-Commissioners doing it? I am not prepared to say that there would be any difficulty or objection to their doing so; I think it is worth considering; I would not like to say what might occur to Judge O'Hagan, or to Mr. Vernon, but it does not occur to me that it would be very difficult.

3366. Would it not be very beneficial in promoting settlements out of Court to say that those were the matters that they attended to in one case, and would attend to in similar cases that might come before them? I am not prepared to say that it might not be a reasonable course to adopt;

I think it is worth considering, 3367. Lord Brahowrne.] They would be able to do it, would they not? Yes, I should think so.

3368. They are men sufficiently competent to do it, are they not? They ought to be.

3369. Some of them are men who are occupiers of land themselves, are they

not a Yes; I am quite sure that the Sub-Commissioners would make no difficulty about doing it if they were asked by us to do it.

3370. Duke of Marlborough.] I suppose you consider that you are proceeding tentatively? We are feeling our way, and very often altering our practice. If we get a

good suggestion we adopt it. 3371. You mean that you are quite open to conviction?

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Quite open.

3372. If you saw the advantage of proceeding in any such way as indicated, you would do so, would you not? We should only be too happy to take the suggestion of any gentleman.

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3373. You would feel yourself quite at liberty to adopt such a suggestion, would you not? Quite so.

5374. Is there any means in determining the value of the farm; of ascertaining the fact whether it has been deteriorated or not; can it he ascertained whether the tenant has been unduly cross-cropping its farm or not?

The evidence very often goes in that direction. A man will be cross examined by his landlord as to what he has done with his land, i how many successive scasens he had meadowed it without manure, and so on; and the Sub-Commissioners who have to itespect it see whether it is so or not.

3375. But there is considerable difficulty, is there not, on looking at the ground at any particular time, of seeing whether that ground had heen cross-cropped or not?

Yes, but a gentleman acquainted with land ought to know whether it is run out or not.

3376. From your koowledge of the character of the Irish tenantry, would you not consider it very likely that, while these decisions are going on, they would endeavour to deteriorate the value of the land by cross-cropping in order

would endeavour to deteriorate the value of the land by cross-cropping in order to show that their farms are in a less valuable condition than they might be?

In a very few instances I think that might happen. I have heard it stated that there have been cases of the kind; but I do not know that there is an authentic case in which a tenan less deliberately injured his land with a view to

the decision of the Sub-Commissioner.

3377. Viscount Hutchinson.] He would not yet have had time to do it, would

he?

He would not have had time to do it. I have heard it suggested, but I do not know that it is correct, that some people have been found pulling down feeces and making the farm look in a dispiduard condition with a view of making it look worse than it really is; but I do not believe it.

3378. Duke of Marlborough. Considering the time which elapses before the cases aiready listed will be heard, there would be ample time for the tenant to do

so, would there not?
I should hope they would be all heard within 12 months.

3379. Is that your expectation?

3380. Do you expect that the cases now listed will be either settled out of Court or determined judicially within the 12 months? I should think so.

3381. 74,000 odd cases? Yes, I hope we will have 30,000 of them disposed of before the 10th of

3382. Lord Tyrone.] You seem to say that there is no difficulty io finding out whether land has been deteriorated nr improved lately?

out whether land has been deteriorated an improved lately? Yes. 3383. With regard to the deterioration of land, are you aware that we have

3383. With regard to the exercisation of single are you are that we make that we it in evidence from Mr. O'Brien that there would be the very greatest difficulty in finding out that very fact, or that he himself would have the very greatest difficulty in doing so?

I do not know. Mr. O'Brien ought to be a very much better judge of land

I do not know. Mr. O'Brien ought to be a very much netter judge or and than I am; but I think if I walked over a farm, even I would find out indications of a detrioration. I know something if farming. I farm some 500 or 600 acres myself, but I do not profess to understand the subject scientifically.

3384. Viscount Hutchinson.] As to this paper of Mr. Gray's valuation, can you tell me how far it is a confidential document, and how far it is a public document?

I coosider it is a public document now.
(0.1.) R R . 3385. But

30th March 1882.] Mr. LITTON, O.O. [Continued.

3385. But I mean in court, how far is it confidential?

In court it is confidential in this sense that up to the time of the evidence bring closed we do not give it to the parties.

3386. Chairman. It was decided, was it not, in some cases in the North, on argument, that the court, would give the document to the parties, but would

not allow their own valuer to be cross-examined upon it? Yes, that is so. Our first intention was not to allow it to be seen by the parties at all. Then we thought that was unreasonable and it was argued before

us, and then we decided we would give the document to the parties, but not before the evidence closed, because they would direct all the evidence to the valuator's report, and we should not like our valuator to be cross-examined because that would at once destroy the value of bis report.

3387. Viscount Hutchinson.] The reason why I asked the question was because I see here "other improvements alleged." Possibly the production of this report may be the first time that the landlord or his counsel may have heard of such allegations?

It may be so.

3388. That you admit is perfectly possible; but what would be your 3388. Inat you admit is perfectly possible; but what would be your pro-cedure in that case, supposing the counsel for the landlord stated that No. 1 drain was not made by the tenant, and that it was the first time that he had heard of any such claim for such-and-such a drain being made?

I have no objection to tell your Lordship what probably I would do. I would first hear the evidence, and if no evidence were addressed to that drain during the course of the case, I would reject any loss of that drain being made by anyhody so far as it affected the result. On the other hand, it would be open to me, reading that document, and hearing the evidence given, to put the question, "What about this drain": and if I found there was not a drain there I would

give the opportunity to the landlord to cross-examine on the spot. 3389. We will suppose the drain is there, and that it is merely an allegation that he made it? Yes.

3390. Chairman.] I suppose one of the objects in handing a document like that to the parties is, that they may observe to the court upon any departure which has inadvertently occurred from the evidence?

That is the object. 3391. Viscount Hutchinson.] But the case is practically closed then, is it not? Yes, we would not allow fresh evidence to be given upon that subject.

3391. Marquess of Salisbury. But you would allow speeches?

We allow speeches, but we make them as short as possible 2303. Lord Tyrone | If it is necessary, as you say, for the Sub-Commissioners

to go and look at the land for the purpose of seeing whether they may place faith in the evidence or not, and as you say, that the Chief Commissioners re-hear the cases entirely, why is it not necessary for the Chief Commissioners to go and inspect the land for the same purpose? Because it would be impossible.

3394. If it is necessary in one case, why should it not be necessary in the other?

Unless you were to have 36 Chief Commissioners it would be impossible.

3395. Marquess of Salisbury.] What is the origin of the Sub-Commissioners going on to the land to inspect for themselves. Was that originally done under your justructions, or has it not rather grown up afterwards? No, that was the original idea of the Bill in passing through the House. The suggestion was first that the county court judge was the proper person to do it. I myself have every confidence in the county court judges in Ireland; but the

lawyer,

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lawyer, but also to have practical associates. The county court judges objected

to have associates who should have an equal voice in a decision; and then former element. Then it was manifest that they could not construct the Act of Parliament, and that they would be admitting all kinds of illegal evidence, and the natural result was that they should have some guidance, and then the constitution of the tribunal was fixed upon. 2206. Viscount Hutchinson. Then the objection I understand came northy

from the county court judges? Some of them objected by correspondence with me when I was in the House.

3307. Is it usual in all these valuations to describe the physical capacities of the tenant?

No. I think Mr. Gray remarks that the tenant is an infirm old man in that case before your Lordship; I have a further example, if you would like to look at it, of another gentleman's report. That is the report of Mr. Russell, another voluer.

3398. Chairman. I thought that the Chief Commissioners had had no valuers except Mr. Gray and Mr. O'Brien

Mr. O'Brien is not a valuer. We have five valuers now; Mr. Gray is the chief, and there are four others.

2200. Marquess of Salisbury. Is not that arrangement of the Commissioners seeing upon the land, rather an anomalous mixture of the functions of a witness

end a judge? It is more like a view-jury, which is a very common thing. They are the indees of the fact and they go to see the premises. I do not think you would find it satisfactory to the tenants if they did not go; they are extremely anxious to get gentlemen to go and see their holdings, and be able to point them out. It satisfies them, and I think they place more value upon the fact of the Sah-Commissioners going to look at the holdings and seeing for themselves, than they would upon any amount of evidence.

1400. Then I suppose the legal Sub-Commissioner does not attempt to form an opinion upon the farm? Not upon the question of the value of the land.

1401. So that it is entirely handed over to the two lay Commissioners? It is upon that technical point.

3402. And I suppose they practically receive a good deal of the evidence mon the ground from the tenants themselves, do they not?

No, they are instructed not to do so. 3403. Lord Tyrone. Is the valuer attached to the court of the county court

judge appointed by the Commissioners?
There are no valuers attached to the court of the county court judge. The county court judges have the same power that we have, and that our Sub-Commissioners have, namely, that of appointing a valuer for a particular case, and charging the parties with the cost. That has been found not to work. In some cases the landlord will not consent to contribute to the nomination of a valuer, and the tenant perhaps will not consent in others. The county court judges therefore have no power to appoint valuers practically, county court judges therefore have no power to appoint vatures practically, because they cannot get the parties to pay the costs, and do not like imposing the cost upon them. Then they have sometimes applied to us, and we have leat them our valuers. We have got the consent of the Treasury to appoint gentlemen who are attached to our Commission, and they are our appointments. They are not Government appointments. They are at present occupied in going over various parts of Ireland, Kery, and Cork, and Klikenny, valuing in the appeals that are coming on before us. They take their maps with them, and they set to work, and have those reports ready for us on hearing the appeals.

judges. (0.1.) 316 30th March 1882.7 Mr. LITTON, Q.G.

2404. Chairman. How do they deal with the question of improvements in

valuing for you? According to the instructions in the document before your Lordship. They

just take the farm as it stands, excluding the buildings, and give us any laformation as regards the improvements that are apparent, such as drains that are open and runoing, and things of that kind,

2405. They leave the question open? They leave the question open.

3406. Lord Brabeurne.] Should you have any additional evidence is a case

of this kind, "alleged drains, Nos. 5, 6, 7, 8, and 9, not visible on account of two or three feet of water in the ditches, and those heing choked with weeds"?

Yes, it is extremely probable that evidence has been already before us with regard to the particular matters referred to in the report, and we often take the opportunity or advantage of turning the evidence in that direction.

3407. Lord Tyrone. What instructions do the court valuers, who value for the county court, receive?

None from us. 3408. Of course you are not aware of what lastructions are given to them? No; the county court judge would say, "I have 300 or 400 cases for my next

session; can you spare a gentleman to come down and value for me," and we send one down. 340q. Chairman.] As to the question of mensuration and acreage, have you

practically found any difficulty about that? No. I thiak not.

3410. Not when it came before you? No; if the originating notice, which is required to state the area, is found

not to be perfect, we have, of course, the Ordnance Survey, which is not necessarily accurate, though very accurate indeed, as a rule. Then, if the parties agree, we alter the amount in the originating notice, so as to get the right acreage stated in it. 2411. We have had a great deal of evidence as to what happens before the

Sub-Commissioners upon that point, as to which it is said there is a great deal of difficulty experienced, and o great deal of controversy? It has not come hefore us.

2412. People appear in Court on the part of the tenants, it is suid, and depose to value who are not competent measurers?

I have no doubt there is a great deal of evidence offered that is of very little

3413. And you agree, as I understand, that it is material that the measuration should be accurate, because, as you know very well, different parts of the farm are of different value? Yes.

3414. There must be a mensuration even of fields in order to give you the acreable value?

Practically, I do not think it would operate with any very great disadvantage. I do not think there is any very substantial difficulty about that, so far as it has come under my notice.

3415. It has not probably come before you; but we have had some evidence before us from which it would appear that the matter is adjusted by dividing the point in difference between the two parties?

I do not know that that course would be adopted, unless it were done by consent. There have been cases in which the landlord would say there are 135 seres in that holding, and the tenant would say there are only 133; it might so happen that the roads would account for the difference, and very often they concur in saying " let it he 134 acres."

3416. How

[Continued

red 1882.] Mr. Litton, q.c. [Continued.

3416. How many Sub-Commissioners are there altogether, at present? Thirty-six; 12 Sub-Commissions of three Commissioners each. 3417. And now there will be 48?

Yes.

entered upon their duties.

3418. Where the Sub-Commissioners who have hitherto been appointed, appointed on the recommendation of the Chief Commissioners?

I will not be able to go into that very deeply with your Lordship. Mr.

T will not be able to go into that very deeply with your Lordablp. Mr. Forster was good enough to consult us upon the appointments, but outside that statement I cannot go. Anything that took place between Mr. Forster and ourselves is, of course, coofidential; at least, it is confidential so far as I am concerned.

3410. What were the qualifications required of the Sub-Commissioners? These were defined by the sixteenth rule, "barristers, solicitors, and persons possessing a practical sequaintance with the value of land in Ireland shall be competent to be appointed to the office."

3420. The term 'barristers' and "solicitors," of course, sneak for them-

selves; their qualification is sufficiently wide; in point of fact, was there any personal test or examination resorted to?

Not that I am aware of.

3421. Were there any instructions given to the Sub-Commissioners by the Chief Commissioners as to the course they were to take in making their valuations and fixing a fair runt?

tions and fixing a fair rent?

I can hardly say "yes," and I cannot say "no"; there were no verbal or written instructions given to the Sub-Commissioners, with the exception of a document which I have here, and a conversation with ourselves before they

3422. If the document is one strendy put in we will not trouble you about it? I think it was put in.

3423. There was one document about receiving hospitality; is it that to which
you refer?
It was in that document, and that was the only document given to the Sub-

It was in that document, and that was the only document given to the Suc-Commissioners.

2424. That was in addition to such verbal instructions as you gave them?

"Verbal instructions"; they were not instructions, they were not instructions, they were general conversations upon the nature of their duties, and the way in which they were to perform them; that is to say, they were told that tirrif calles were to ascertial fairly and honeathly between the two parties the fair rent, according to the best of their judgment and ability; the conversations were not in the nature of instructions, but rather by way of information; we deliberately abstained from giving instructions.

3425. Marquess of Salisbury.] You appeally called their attention to certain points, or certain subjects, I suppose?

We told them that they were to act in the character of judges; they were not partizans; they were to hear the evidence; they were to lean neither to the one side nor the other, but honestly and conscientiously to do their duty to the best of their ability and judgment.

3426. Barl of Pembroke and Montgomery.] You did not instruct them in any principles upon which to arrive at a fair rent, did you?

No, we did not; we gave them the Act of Parliament and told them that their knowledge of the subject was such as to enable them to carry out the principles of the Act in an honest and araightforward manner.

3427. So that, practically, they might adopt any principles of valuation that they liked so long as they were consistent with the provisions of the Δct ? So long as they were consistent with the provisions of the Δct ; the great difficulty would be to secure that result.

3428. What would prevent one Sub-Commission saying, "We will make a (0.1.)

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30th March 1892. Mr. LITTON, O.C. [Continued

produce valuation, and the landlord's rent shall be a quarter of it; " and a second Sub-Commission saying, "We will do likewise, but the landlord shall have a third:" and then e third Suh-Commission saying, "We will have regard to what a solvent tenant would pay, but we will fix the occupancy rate at a fifth;" and a fourth Commission, saying, "We will have regard not to what a solvent tenant will pay, but we will fix the occupancy rate at a fourth;" as long as they were all conscientious and had regard to the provisions of the Act they would all be within their rights in doing that, would they not?

If you put the case as a supposititious one, and suppose they are all conscientiously carrying out their duty, I have no reason to quarrel with the result: that would be set right on appeal. The parties would have their right of appeal if the Commissioners had gone wrong, but if they have followed out the principles indicated by the Act they are doing their duty.

3429. If no principle for fixing fair rent is laid down for them how is there to be any uniformity at all ; why should not each Sub-Commissioner lay down a

principle for itself in the way that I have suggested? Gentlemen who have a knowledge of land will generally value in the same way from their own experience.

3430. Lord Brobowne] if they would be set right on appeal does it not

Solilow that there is some general principle guiding you?

No; there is a uniformity of principle. The case put to me hy one of your Lordships is four separate Commissions going upon different lines as it were. We es a superior Commission go only upon one line; it may happen that our line may be quite as false as theirs, if it is false,

2441. Chairman.] If they do not give any reasons in public, and no reasons that we know of in private, how are you to set them right if they go upon the wrong line?

We cannot set them right upon principle, but we may set them right as to the result

1432. How can you set them right as to the result?

We can correct the result by ascertaining the value according to the uniform principle upon which we act.

3433. Then, do I understand you to say that the Court of Appeal look upon the question of value as if it were a matter freshly brought before them for their decisions in the first instance?

We do. I would like to qualify that by saying, if the amount of difference was extremely minute and worthless in our judgment, we would not vary from the decisions of the Sub-Commission.

3434. You meao upon the principle de minimis non curat les ?

3435. Lord Brabourne.] If you would set them right upon the uniform first instance what uniform principle they should act upon?

That may be so; but it is extremely hard, as I said before, to define a principle in this particular subject metter which would extend to, or be applicable to, every case. I do not think it is possible to do it.

3436. Marquess of Salisbury.] You have made no attempt in that direction, in the conversation that you had?

No; we had no suggestion of the kind before us.

3437. Lord Brabourne.] Is it not rather hard upon the inferior Court to have no suggestion as to the uniform principle which guides the Court to which appeals from their decisions would go?

If we helieved it possible to lay down a principle which might be applied without danger to all cases, we would lay down a principle; but we do not consider that we could formulate any principle which might not lead to great injustice.

3438. Chairman.] And you found 36 men cheerfully willing to go through

the

30th March 1882.]	DAY. I	ATTON, Q.C.		[Continued.	
the country, without any	principle to	guide them,	to settle rents on	their own	

judgment ? I think that is not quite what I intended to indicate.

3439. Lord Brabourne. You have a uniform priociple upon which you act, but which is not a principle copuble of being imparted to the Sub-Commissioners; is that what you mean

I do not put it in that way, I do not say that we have a uniform principle that we apply to all coses, but we have a principle that we try to apply to all cases in order to work out a uniform end.

3440. Lord Tyrone.] Have you come across any divergence of action on the part of the Sub-Commissioners sitting upon the same Sub-Commissions? You mean difference of opinion between the members of the Commission?

3441. I do not mean difference of opinion, but difference of statement. For instance. I could give you two cases in point, one shout costs and the other about a valuation; one Sub-Commissioner staring that he would give his reasons for his valuation, and another Commissioner, on the same Sub-Commission,

stating that he would not give his reasons for his valuation? It may he so, but I am not aware of it. I do not read the Sub-Commissioners' statements.

3442. Can you not say whether such things have come before the Chief Commissioners?

They have not come before us as a matter of husiness. 3443. Marquess of Salisbury.] Professor Baldwin has on more than one occasion stated he was acting upon some principles; you do not happen to know

what they were ? No. 3444. Lord Tyrone. With regard to my former question, would not the fact of starting the Sub-Commissioners without any fixed idea and principles he

likely to produce the results I have mentioned? The results which your Lordship lately referred to would seem to be very natural results as regards any tribunal or any number of tribunals; gentlemen

will differ and prohably sometimes foolishly express their views, or refroin from expressing their views.

3445. On the occasion to which I allude they did express their views? They have not come officially before any of us to my own knowledge.

3446. Marquess of Salisbury.] May I ask, with respect to the conversation which has been spoken of, whether it was conversation of three with three, or

three with 12? The conversation was with the first 12 gentlemen appointed. We sat round the table and asked each gentleman what his opinion of fair rent was. It took place conversationally in that way. They each stated their view, and we had a general conversation as to the principle upon which the rent ought to be

3447. Then they did attempt to formulate what it should be? These gentlemen gave us their notions of it.

3448. Is that confidential, or may we ask what it was?

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I could not undertake to repeat the views of 36 gentlemen. 3449. Lord Brabourse.] Suppose one had given what you considered a most preposterous idea of fair rent, you had no power to remove him?

No. we rather smiled or laughed at it. 3450. But the landlord on whom he adjudicated would not smile?

We would say, "That requires some little consideration;" and he would probably say, "Well, I see that my observation may be answered." It was n general conversation, more for the purpose of educating one another, and for the purpose of seeing how we would allot these gentlemen to different districts, because that duty devolves upon the Chief Commissioners. -3451. Marquess 30th March 1882.7 Mr. LITTON, Q.C. [Continued

3451. Marquess of Salisbury. Were any of the suggestions they made of an arithmetical character, such as that the rents ought to be reduced 20 or 25 per

cent.? No, nothing of that kind took place. If I understand the point of your Lordship's question, there was nothing at all in that direction; we would not have

listened to it for a moment if there had been, 3452. Lord Brabourne.] We cannot judge of the education, then, by the results?

We do not pay them by results. 3453. Duke of Marlborough.] Have you any idea whether, in the process of

their experience, the Suh-Commissioners are at all modifying their views or I rather think they are gaining experience and modifying their action in some

respects. 3454. Judging from what you can observe as to the result of their decisions,

compared with what their expressed opinions were when you first had this conversation with them, which you allude to, that is the result? Do not understand me as saying that they expressed opinions; I would rather not put it in that way. It was a conversation in which we sought to educate

each other, we wanting to know their views with a view to regulating our own conduct in sending them to one district or another. We inquired as to their experience in one part of the country, or another part of the country, whether their own connection with land was in tillage, or in pasture, and so on, with a view that we might elect a gentleman soltable to the district to which we proposed to send him. 3455. Chairman.] Was it the Chief Commissioners who determined which

Sul-Commissioners should go to each district? Yes, we determined that. 3456. Was it also the Chief Commissioners who determined that the Suh-

Commission should coosist of one legal and two non-legal members? Yes, I think so. 3457. Lord Tyrone.] For what respective periods are the Assistant Com-

missioners who now hold office appointed? One year.

3458. Does that apply to all of them?

All, except the first four Commissions that were appointed.

3459. And those 12 gentlemen were appointed for how long? For the whole seven years. 460. And the rest are appointed for only one year?

The rest are appointed for 12 months.

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3461. Chairman.] There has been no change made yet in the districts of the Suh-Commissioners, has there? No, the circuits are just now running out. They will all have expired in this

present week, and that Paper which I handed in to your Lordships shows the new circuits. 3462. Will they all be changed all over the country, or will you endeavour

to keep as fur as possible those who have gained information in a particular district, in the same district? Yes, subject to certain limitations.

3463. Viscount Hutchinson.] But there will be a general rearrangement, I виррове? Yes, I think so.

3464. Lord Tyrone.] I suppose you will retain the Sub-Commissioners topether?

experience

30th March 1882.7 Mr. LITTON, Q.C. [Continued.

experience in a locality we desire to retain them in the same locality; but gentlemen on the Commission may have some special grounds (domestic or otherwise) for wishing to get nearer to Dublin, or more remote from Dublin, as the case may be. There may be also grounds such as the connections of a man or his relations in the county which would justify us in the removal ; but the principle we not upon is to keep the Commissioners in the district they have become familiar with, and, as far as possible, to keep the men together who have become acquainted with each other.

3465. Marquess of Salisbury.] May I ask you whether, in your discussion as to fixing fair rents, any light was thrown upon the antecedent question of whether reats were supposed to be high in Ireland, or not?

No discussion took place upon that subject at all. We purposely avoided anything which could enter into policy or politics.

3466. Do I understand you to say that you did not euter into policy or politics at all ?

We did not. 2467. Such matters as the adventages that the Lund Act held out to the Irish tenant, and which Mr. Justice O'Hagan observed upon in his opening address,

were not the subjects of your conversation at this meeting? No.

3468. Duke of Marlborough. I suppose one subject was agreed upon, namely, the course of action that was thought necessary and proper, and which has been alluded to here. I think, by you, that no details should be given as to the re-

spective value of improvements on the value of the farm? No; no questions of that kind were discussed, because at the stort they took our directions. So far as furnishing them with forms and documents to fill up may be considered giving instructions, they got instructions.

3469. We know that the Sub-Commissions will not give reasons for their decisions, or apportion in any way the respective value of the improvements and the value of the farm; do I not understand that the furnishing of that information was agreed upon by the Commission, and that it was to be generally followed by the Sub-Commissions?

I do not remember that we had any discussion at all upon that topic. When we framed our rules and forms we came to the conclusion that the forms should be in the shape in which they were issued, and we issued them in that form, and it would be their duty to return them in that form, and fill them up as well as they could. Subsequently it came to our knowledge that there was extreme difficulty in ascertaining those proportions, and we thought we would dispose with that requirement; and then we considered it again, and it was mentioned in the other House that we would consider the matter with a view to getting that information.

3470. Marquess of Salisbury. Mr. Godley told us you had occasion to inform the Sub-Commissioners that they had better not make speeches?

3471. Was it on the occasion of the conversation spoken of that you did No, it was subsequent to that; it was after some speeches had been made, I

3472. Viscount Hutchiuson.] It was done by letter, I think, was it not?

3473. Lord Tyrone.] Referring to the evidence you have already given, I understand you to say that the question of the tenants not being obliged to give information as to the improvements they are about to claim, is a sentimental

grievance on the part of the landlords? I think it is, in a great measure.

zhink.

3474. Do you not think that it is almost impossible for the landlord's valuator to make a proper valuation without that information? No. $\{0.1.\}$

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No, I think not; I think a valuer going upon the land will see what the improvements are quite as readily as if he had them scheduled, unless they were

[Continued.

improvements are quite as readily as if he had them scheduled, unless they were scheduled in greater detail than can possibly be given. 3475. Can he possibly tell who has made them?

No, he eannot.

3476. Therefore that would materially alter the valuation of the landlord's valuer, would it not?

valuer, would it not?
It might, but I apprehend a landlord's valuer, and the tenaut's valuer could make a valuation irrespective of who made the improvements. If it is necessary afterwards to regulate his result by the fact of whose improvements they were, such could be done.

3477. Then us to the hearing in Court, is it not very difficult for the landlord to produce evidence if he does not know what he is to rebut?

I think in the vast majority of cases in which these questions arise, either

the landlord or his agent is familiar with the condition of the property, and knows already whether the improvements have been made by himself or his tenant. He can, at the very first moment, and without preparation, meet the case in most instances.

3478. Are you not aware that in Ireland the office hooks are sometimes very loosely kept?
Yes.

3479. I may say generally, may I not?

Yes, I think it is very likely they are.

3480. Under these eircumstances is it possible for the laudlord to say what his predecessor in title could have done? No, it is not possible, but I think there is a great deal more made out of the

matter than it deserves.

3481. Chairman, I Suppose there has been a change of ownership, either is

the Encumbered Estates Court, or out of it, would the new owner have any knowledge of what had happened before his time?

He would not, but in dealing with improvements as regards houses and hubdings they really effect the letting what to a very and extent. You will find that in the reparts of our official valuers, as a rule they will put drow on a to really of the real part of the real which have, generally speaking, been cretted by the tensats; if they have the there exceed by the tensati it is not to mach to ask the landered to show that fact, and I think, bolding ask precisionly, that there is a great each more quintition in analogy, generates on the part of the landered to show the particular of the real part of the landered than they are really particular particular than the real particular pa

3482. Viscount Hutchinson.] Taking a case of a recent purchase in the Encumbered Estates Court, where there is no recept of any sort except the mere document handed to the purchaser by the Court, how is it possible for the landlord to prove anything?

It is true it is not possible in such a case as that; but where there was anything upon the holding which would influence the rent to any reasonably appreciable amount, it is open to him to ask for the information, and he is certain to get it.

3483. Lord Tyrone.] That is by application to the Court, is it not? Yes.

3484. To the Chief Commissioners?

First by application to the tenant, and if he is refused then by application to the Court, and if the tenant unreasonably refuses, the tenant will have to pay the costs.

3485. That

Continued.

3485. That is the rule laid down, is it, that the tenant will have to pay the That is the practice. There is no rule laid down,

1486. Do you think that that is universally known?

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I have no reason to suppose that it is not. As I mentioned to your Lord-

ships only 16 applications have come before the Court since the beginning of February. I could give you the names of the cases in which the applications were made if your Lordships cared to have them, but it is not very material.

3487. If the Court is prepared to grant the motion when it is applied for, is the fact that the withholding of the information places the landlord in a difficulty the only reason why the giving of it is not forced upon the tenant originally Our orders are made for universal application. The others are exceptional cases to which general orders would not apply. They are dealt with by excen-

tional action, and that exceptional action is the opportunity afforded to the party of coming to the Court and asking relief.

3488. Chairman.] I should like, with reference to that, to ask your opinion as to how this might he done. I quite follow your view about your anxiety not to apply to every case what after all may be only wanted in a small number of cases: but on the other hand, as we all know, an application by one man to another in the country, without any appearance of authority on the part of the Court, is not very likely to be attended to, might it not be worth consideration whether there should be a rule of the Court, pointing out the sort of general form in which the one side might apply to the other for this information, and allow it to be applied for upon a Court form in pursuance of that rule; then if they get the information, there is an end of the case, and that is all you want. Then that document is an authoritative document produced in Court. If on the other hand it is refused, then the application might be made as you have suggested? I am not at all prepared to differ from your Lordship in that view.

In point of fact an order made with regard to particulars was mistaken by many parties as a general order giving that authority. It was held that it did not apply to the case that we are now discussing, but was restricted to certain other cases: I am not at all prepared to say that it would not be a very fair and reasonable way of meeting the difficulty, if there is a difficulty, but I think the difficulty is overrated.

3489. Marquess of Salisbury.] What powers have Sub-Commissioners for keeping order in their Courts?

They complain of not having enough authority in that respect. The police have by a general order of the local authorities directions to attend and keep order, but the Sub-Commissioners themselves complain that they have no means of providing a crier for their Court, and the Treasury do not like to allow that expense.

3400. Have they any power of committing for contempt of Court if they are insulted by a solicitor or counsel? Yes, ecrtainly.

3491. I should like to ask whether you consider that they would have a case for interfering in the event of an attempt being made to create a feeling of disrespect against their authority?

Certainly. 3492. What would you say if a statement of this kind were made in open Court: "Well, I can only say, if this is to be the rule, and cases are to be decided adependently of the evidence given in Court, and upon anything else than ovidence, these proceedings are only a solemn farce;" would they have the

power to commit under such circumstances ? That would depend upon whether the Court considered that it was a coutempt which would prudently justify the exercise of their power. If I were a Sub-Commissioner sitting in a county town, I would bear a good deal before I would commit.

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3403. In the hypothetical case put to you, would this statement move your feelings, "Oh, appeal, sir. I will never advise the poor tenant farmer to neur expenses in law courts. There is nothing for the farmer but to renew the agitation"?

I would say it was a very improper observation, but I would not commit. I am afraid I would be committing myself if I did.

3494. Do you not think that the fact that observations of this kind are made in the Courts of the Sub-Commissioners does tend, to some extent, to bring the jurisdiction of the Sub-Commissioners into disrepute?

It may, but the Suh-Commissioners, on the other hand, most make allowance. The Courts are not very superior Courts, and a great deal of license must be allowed in the matter of expression of feeling; I think it would be very unwise on the part of any judge, even in a Superior Court, not to make ullowance for what suitors might indulge in in that respect.

3405. Would you not think that where the feeling was all on one side, it would impose upon the Court the necessity of being particular as to expressions of feeling?

I do think so, and I would go forther and say that I would exercise our powers in a very summary manner in any case in which I thought the expression was calculated to excite feeling.

3496. Or to intimidate?

Or to intimidate.

3407. Do you not think exhibitions of that kind may have the effect of modifying the evidence which witnesses would otherwise freely give?

No. I think it is more an expression of temper than anything else. 3498. Supposing it were the case that any counsel or solicitor were ta make

use of the Court for the purpose of forwarding his electoral prospects, would you cansider that a matter which the tribunal ought to check very peremptorily? Certainly, I do think so.

\$499. Lord Brabourne.] Have you turned your attention to the manuer in which the evidence on behalf of the tenants is produced before the Sub-Commissioners?

I cannot say that I have as to the manner in which it is produced. 3500. Are you able to contradict the statement, or is it a fact that evidence of

value is continually given by tenants of adjoining lands who have themselves cases about to come into Court? I believe that is so. I have no knowledge of what has taken place before the

Sub-Commissions, but upon appeals we have had that class of evidence.

3501. In your instructions to, ar in your education of, the Sub-Commissioners, did you give them a bint that such evidence must be received with that caution which the evidence of all interested parties ought to be received?

No, I would have thought it more ar less of an impertinence to give that instruction.

3502. You think they are so much above that instruction that they would be sure ta disregard such evidence?

I think they would be sure to take it at its proper value; not to disregard it. 3503. If you see the only evidence on the part of the tenant is of that description, and that the reception of that evidence resulted in a very large

reduction of rent, should you say that the Sub-Commissioners were men of such a character as not to be guided by such evidence? In the results that the Sub-Commissioners have came to they have acted

judicially: I canuot judge their motives in the result. 3504. Judging by results, is it, or is it not the case, in your experience of the decisions of the Sub-Commissioners, that there has been a tolerably uniform

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reduction

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reduction of rents, whether upon high rented estates or moderately rented

estates?

No, that would not be the conclusion I should draw from my knowledge of the decisions.

g505. Then do you dissent from the evidence which has been given to us, to this effect, that owing to the application of some principle or other not given by the Chief Commissioners, and which is not understood by the Commissioners and which is proposed to the Chief Chi

If the fact be so it is perfectly accidental, I helieve,

3506. If that has been stated to us by certain persons from different parts of the country who appear to be competent judges, may we not take it to be a fact, or do you think it is a mistake?

It is a fact undoubtedly that, looking at the werage result of the decisions, there is a striking uniformity; but I believe that that is accidental. I do not believe it is arrived at by any arrangement or pre-concert, but has worked out in that direction by purely accidental circumstances.

3507. If the accident has been of rather wide application, the person who had let his land upon moderate terms would have more than a sentimental grievance, would be not?

would be not?

Certainly, if it were more than seedents!. I do not believe that the
gentleman who has let his land on reasonable terms has had his rent reduced at
all to the same extent as those who have rack-rented their land. I do not think
such a thing is possible.

3508. We had it rated by one gentlemen that his ides of the operation of the Land Act was this, that wherea large notice in Irend were generally let at larger states would probably be taken as the smaller estates, the larger states would probably be taken as the standard, and that the smaller and higher rented exteats, would be brought down to that apparently fair standard; we say idea of that kind mentioned in your educational constanding in which we have the smaller standard; when any idea of that kind mentioned in your educational con-

versation? Never; but I rather take exception to your Lordship calling it an "educational conversation."

3509. Viscount Hutchinson.] Would it be possible from the records in your office to give any return of the cases where the rents have been fixed by the Commissioners, classifying them according to the time those rents have been in force?

No, I think not.

3510. There is no record of that sort kept at all, is there?
No. I would be anxious to have information of that kind if I could get it, to show the continuous litting of rents within the last 30 years.

3511. Do you think information of that sort could be got? I do not think it could be got.

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3512. Do you think that it is the fact that during the last 30 years there has been a steady lifting of rests?

60em a steady litting of reats? There have been numberless cases in which there have been four consecutive rises of rent within the last 40 years, or at all events since 1830.

3513. Has that been general? I have had experience of it myself in the cases that have come before me.

3514. Lord Brabourse.] Upon large estates as well as small ones, do you mean? No, I do not say the large estates. The large estates have not come before

me, and I would apprehend that it is very unusual on large estates.

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3515. Marquess

Mr. LITTON, Q.C. 3515. Marquess of Salisbury.] Is it not the practice on many estates in England only to change the rents on the death of a tenant, and is not that the

Continued

practice in Ireland? In the north of Ireland, probably it is,

3516. You thick it not general?

It is not general

3517. Chairman. Is it oot more frequently the practice in the north of Ireland to charge the rents or re-calue the estates after certain fixed periods. such as 20 or 25 years?

I am not aware of any rule.

3518. On particular estates that practice may prevail, and upon some of them may it not, you thick? It may be so. Mr. Bence Jones adopts the idea just soggested, that the

existing rent terminates on the death of each tenant, and he has taken the opportunity of raising the rent of the holdings in several cases of that kind.

3.319. Viscount Hutchisson.] Of course you are aware that one of the fuoc tions of yourself and colleagues and the Sub-Commissioners is to fix the specified value of the holding; has that ever come hefore you personally?

3520. Have you had any appeals from the Suh-Commissioners upon it? Yes.

521. Is there any fixed principle in that? That is a matter which is under discussion at the present time. There is considerable difficulty about it. The tenant is in a cleft-stick, so to speak, because the higher the rent the less the value, and the lower the rent the greater the value; accordingly it operates op and down, and they are very unwilling to give evidence themselves as to value. We have had evidence from the landlord's witnesses of the value of the holding, taking it at the judicial root, and on that evidence we would be prepared to act. We have not adjudicated upon any case that was contested. Some cases were assented to; the specified value put upon it by the Sub-Commission was accepted by both sides. Another case is at present under consideration, because there is to be an argument upon the subject as to how far the section of the Act of Parliament is mandatory or whether the Court may exercise a discretion and decline to fix a specified value.

3522. Supposing you were called upon to fix a specified value, would you bear in mind more particularly the actual market value of the holding, such as the tenant might realise for it under the Act at the hest price he could get, or would you take the average number of years' purchase?

Twould rather not answer that question, if your Lordship pleases, because
I have been probably the subject of decision; we shall have to consider what

course to adopt.

3523. Still the fact remains, whatever you fix the specified value at; it is merely for the purposes of the landlord's pre-emption, is it not? It is.

3524. If the laodlord does not choose to exercise that right, the tenaut has a perfect right to go into the market and sell it for what it would fetch?

35.25. We will take a case; suppose that a tenant of mine goes and sells, in the open market, the interest of his tecancy, after offering me the pre-emptico, and I do not buy it, and another tenant comes io, does the price fixed fourc to the second tennot?

That is a matter of the coostruction of the Act of Parliament; if you do not take me as giving a judicial opinion, I would say I apprehend that it does.

3526-7. So that supposing "A," the first tenant, realised 100 l. for the value of his farm to the open market, the specified value having been fixed at 60 L, I might, when an opportunity arose, step in upon his successor and take the farm for 60 L, plus any improvements that he had made :

I apprehend

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I spprehend that that would be so if circumstances occurred in which the landlord's right of pre-emption came into existence.

3528. You say that that matter is still under consideration?

The construction of the clause which imposes the duty upon the Sub-Commission to find a specified value, is under consideration as to whether it is mandatory or discretionary.

3520. Marquess of Solizbury.] I suppose that would be a subject which would probably go to the higher courts \dagger It may.

3.50. You have told us, with regard to particulars, that an application has to be made to the Court by the handlord in the event of particulars being required. Just look at the 99th Rule ?

That is the rule to which I referred.

3531. We have had some controversy about it here; the words "such application" do not apply to all the rules from 94 down to 99?

3532. They only apply to Rule 98? That is so. I think it is extremely

That is so. I think it is extremely likely that if our attention had been called to the subject at the time the rules were framed, we might have enlarged that rule so as to prevent its being restricted to the preceding rule.

3533. Chairman.] Of course the rules are in your own power?

The rules are in our power, and we have added to the original roles.

3534. I want to ask you shout the purchase olaness. We have got the details or statistics upon our notes, as to the extent to which they have been resorted to, but may I take it to be your opinion that considering the area over which they extend, the number of instances in which they have been resorted to is small as yet?

s yet?
I think it would be unressonable to expect them to be large.

3535. But you agree that the cases are few?

Yes, they are few in number. 3536. Is there, at present, any symptom of their increasing?

3530. Is there, at present, any symptom of their increasing?
No, I think not; and I do not expect that they will increase at present.

3537. May I ask what is your reason for not expecting that they will increase? I think the condition of things as to fixing fair rents, and the fact that the

inducement to a tenant to home see to have a seen at a see to be seen inducement to a tenant to home seen the proprietor is not so great when he has seenrity of tenure at a fair rent, is quite sufficient to account for persons holding back.

3538. Do you speak of becoming the proprictor under the clauses as they now stand, or under any different arrangement?

As they now stand.

35.39. I suppose it is quite clear that whether it is a cuse of a judicial rent or a case where no judicial rent has been fixed, the tenant becoming the proprietor, would, in the first instance, have to make a sacrifice by providing a quarter of the purchase money?
He would.

3540. And the resolt, having regard to what the terms are, must be that be would make annually a greater payment, or be at a greater cost than that at which he would stand as a tenant?

183.

3541. It has been pointed out that with regard to the advances in the Landed Estates Court, the advance can only be two-thirds of the purchase money, whereas you can recommend three fourths?

Yes. (0.1.) 8 8 4 3542. That

30th March 1882. Mr. LITTON, O.C. Continued.

3542. That is an anomaly which I suppose you think it would be desirable

to rectify The words in the 24th Section are, "a landlord selling to his tenant": we do not consider the Landed Estates Court to be in the position of a landlord

selling to a tenant, but we are able to apply the Bright Clauses of 1870, which are extended to our Commission, to the value of the holding, and in that way we get at the result ; but it is rather a roundahout way.

3543. Supposing the landlord and tenant agree to sell on the clauses as they now stand, and come to you for an advance of three-fourths of the purchase-

money, what do you do with regard to the value; do you make a valuation, or or do you take the valuation given to you?

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The course of proceeding is: The application states the poor law or tenement valuation in one column; the purchase-money agreed upon between the land-lord and tenant is stated, and the amount of the advance asked for. A short reference to the nature of the land is given, and if upon the face of the application it appears to be a reasonable investment for the tenant, and the three-fourths would be sufficiently secured, we make an order at once to inquire into the matter, and it goes down from Mr. O'Brien's office to the solicitor's office for inquiries.

3544. Then what inquiry is made; is it as to the title?

If there is any doubt as to the value of the security, we get an investigation of value; then the title is inquired into by the solicitor's department.

3545. Have you declined in any case to make an advance on the ground that the purchase-money which the tenant and landlord had agreed upon was too high?

Yes, I think so; that is to say, we have declined to advance the amount that was asked.

3546. The amount of the three-fourths, you mean? Yes.

3547. What was that owing to; was it in consequence of the valuation you had made of the estate?

No, I think not, if I remember rightly. I have some information upon that point. Some cases have been refused. There was a case of a Mr. Goodbody's, I think, which was refused on the ground that we did not think that the amount asked for was sufficiently well secured, looking at the respective values; in other words, that the annual payment that would have to be made to us under the Act, at 5 per cent. interest, would be a sum above the poor law valuntion, and we did not consider we ought to go beyond a sum which would leave our payment equal to the poor law valuation in the particular case.

3548. Is the principle you have adopted, to require that the annual sum payable in respect of the three-fourths must not exceed the poor law valuation? We have no absolute rule, but we are influenced by that consideration; but if we found that our valuer gave a very good account of the bolding,

and that the poor law valuation was very low, or relatively low, we would disregard it and go beyond it; but we would be struck by it in the first instance; we should have special reasons for going beyond 20 years' purchase of the poor law valuation. 3549. Viscount Hutchinson. | So that, practically, it amounts to this, that no

advance can be made when the selling price is more than 20 years' purchase of the valuation? No; I think that would be putting it too strongly against the clauses, or

against our action. I have a table here of the whole of the cases, I helieve, in the solicitor's office; there are 28 of them, and the present condition in which they stand, and the amounts applied for, and the amounts sanctioned. I find in one of those, dealt with by Mr Vernon, that the amount applied for was 3,000 L, and that amount was sanctioned, only striking off the odd pounds so as to make them even tens, and in one respect he reduces the amount to the amount recommended by our valuer as the value.

3550. We

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30th Merch 1882.] Mr. LITTON, Q.C. [Continued.

3559. We will suppose a case where a property is sold, any for 800 t, out of which you would advance 600 t, we will suppose that the rate changed on that would be too large, or that the security was not sofficient, and that you cut it slown, and that the learliort sad tennata speed that the difference should be paid in each by the tennat to the londlord; would that be a matter that you would investigate not consider contrary to the power of sale?

No, we would be very pleased to do that; we would say we will be pleased if you will carry out the whole transaction, and we will forward your views as far as we can.

3551. You would have no objection to such a transaction, I gather?

3552. Chairman.] Is it your opinion, from your knowledge of Ireland, that if the arrangements were made more easy under these classes, and especially if the tenants were not required to pay a greater sum than what they annually pay, that there would be an anxiety on their part to become the purchasers? I do not think there would be the same anxiety as there was before the passing

I do not think there would be the same anxiety as there was before the passing of the Land Act of 1881.

3553. Do you think as a matter of policy it would be a good thing if the

occupiers of land in Ireland became the owners?

To a moderate extent I do. I am not so much in favour of the proprietary clauses as many of my friends; I have my own doubts as to the policy of

causes as many or my freenes; I have my two notions as to the potrey of the them.

3554. You do not look upon the policy of the Land Act, as it has been compared to the compa

3554. You do not look upon the policy of the Land Act, as it has been sometimes described, as providing in the shape of judicial roots, a modus viscadi to bridge over the period that would intervene until all the teams were made owners?

I should not wish to pass over the bridge, as a matter of policy, in my view of the question.

3555. With regard to the title which the Commissioners would accept, what

is the course they would take in investigating the landsord's title? If the landsord is an absolute owner, as in many case the landsowner are, the solicitor prepares a short not of this title which has been furnished to him by the solicitor programs of the property of the solicitor programs and the solicitor programs are solicitors. We would go over the short not not and it it was all right, we would pass the title. If it were a complicated title we would desire him to take the object of the solicitor of counter, and iff the secretor are satisfactory or praged to incumbrate, and the secretor are satisfactory to regard to incumbrate, and the secretor of counter, and iff the secretor are satisfactory to regard to incumbrate,

judgments, and so forth, of course the matter proceeds to conveyance.

3556. Can you give any idea of whot expense is occasioned by the investigation of the landlord's title?

No, I have no materials upon which I could give any reliable opinion upon that point. The operation of the Act is too recent, and we have had but little experience.

357. Some difficulties have been pointed out in the way of these clauses

upon the same priociple; for example, with regard to the position of the tenant for life selling, have you found any difficulty in regard to those clauses?

Those cases have not turoed up to practice yet.

3558. Has a difficulty been found with regard to bead rents or quit rents? Yes; evidently there are difficulties of that kind which may be suggested and which would undombtedly arise.

3559. Is there any way in which the difficulty about head rents can be met? I would rother not give any suggestions to the Committee about ameeding the purchase clauses; I think I am bound to give those to Her Majesty's Government.

3.560. You have not any suggestion to make then?
No; I could not make any suggestions in the nature of an alteration of the (0.1.)

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Mr. LITTON, O.C. Continued. clauses When I say I could not make them I mean to say that I could make

them, but I prefer not to make them. 3561. Duke of Somerset.] I understand that you do not attach much value

to the purchase clauses? I do attach value to them, but I would not stimulate their action; I think they might be over stimulated to injury.

362. Marquess of Salisbury.] What evil or injury should you fear?

The injury iodicated when I say that I would not like to cross the bridge to which I just now referred.

3563. Do you mean that you dislike the peasant proprietory or that you doubt the value of the landowning system? I can only answer the question in this way: I think any system which would

eventuate in turning the landowners of Ireland into peasant proprietors, if it was carried too far, and became too universal, would be most disastrous to the connection between the two countries.

3564. Charman.] Then I suppose your suggestion would be in the way of imposing difficulties with regard to purchase?

No, I think it may be allowed to work itself out naturally; but I think that there ought to be no advance beyond what would be safely secured.

3565. And is that the principle upon which you act in sanctioning advances? No; I only act upon the terms of the Act of Parliament. Formerly, before the Act of 1881, there was a decided reason and advantage far beyond what now exists, to induce a man to acquire the property in his holding. I do not think there can be any doubt about that, but I think to do anything by which peasant proprietary would be pressed forward out of its natural course so as to supplant the social system in Ireland as it exists at present, would be a misfortune to the country.

3506. Marquess of Salisbury.] You do not think the social system has been seriously affected by the passing of the Land Act

I hope that it has for the better, and I believe that it has for the better,

3567. Viscount Hutchinson.] Io what way do you think it has affected it for the better? . I think that it will place the relation of landlord and tenant upon a truer and juster basis than has hitherto existed.

gti8. Chairman.] And do you think that a hetter relation than any other : I do : I would prefer to see landlords dealing with their tenants on the prin-

ciples of the Land Act of 1881. 3569. Viscount Hutchinson.] Has the landlord any power to deal with his tenants under the Land Act of 1881?

I think he can do an enormous amount of good. 357c. Marquess of Salisbury. How does his position differ from that of a

He has all the proprietorial rights, hunting, sporting, and shooting; he has the natural influence of education among his people; he can deal with them

upon thorough terms of independence and good feeling, and there would be always that respect due and paid, I should hope, to a noblemuo or geotleman in Ireland who has a large number of teoants with whom he lives on good terms.

3571. Lord Brahowne.] Have not the hunting and shooting rights been practically restricted in some instances since the Act of 1881?

Yes, but not in consequence of the Act,

3572. in spite of them? No. I could not say in spite of them either; the unfortunate condition of the country has led to that restriction to which your Lordship refers.

3573. Marquess of Salisbury. All the advantages you claim for the position of landlord io Ireland would be equally enjoyed by any wealthy and educated

person

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who

30th March 1882.] Mr. Litton, q.c. [Continued.

person who had a house there, without any regard to the source from which his income was derived, would they not?

No; all the enjoyment of property, I apprehend, or half of it, must be in the possession of influence, not by the mere force of wealth or rank, but by reason of the good feeling existing between a gentleman and those with whom he has such relations.

3574. But he has no power left over the tenants whatever, has he $\stackrel{\cdot}{\cdot}$ Not of eviction.

3575. Consequently, no power at all? I do not say so.

3576. Viscount Hutchinson.] He has no power of selection, has he?

 $3577. \ \ He$ has only the right of refusal? He has the right of refusal.

3578. Lord Tyrone.] What power has he now in the case of one tenant interfering with another by making a right of way, or stopping water, or various things of that sort that laudlords used to take great interest in, in the past? He has no power to force them, but he has power to exercise his goodwill

He has no power to force them, but he has power to exercise his goodwin and good offices between the parties.

3579. Chairman.] But all the neighbours have that power, have they not?

3579. Chairman.] But all the neighbours have that power, have they not?
Ano, they are not brought into the same relation with the tenants; gentlemen of large preperty in the country, I believe and hope, and expect, even with all

the disadvantages that the agitation in Ireland now creates, would be respected and looked up to 1. I think there is great respect paid to gentlemen of rask and honour in Ireland, and that they can bring enormous influence to hear upon the people, not by virtue of any legal right, but by virtue of their social position and relation to the parties. 2,35.0. Viscount Hatchisson.] 'Then you are not one of those people who

think that the amenities of property, as they are generally called, are very much removed from the sphere of the landlord at this moment, and that their removal is likely to promote the absentocism, which has always been looked upon as an earl?

ent!
Undoubtedly, the more strained the relations of landlord and tenant in Ireland
the more inducements there are to absenteeism.

3581. Do you not think that doing away with the power of eviction, and leaving to the Irish landlord only the power of refusal in the management and

selection of the tenants who are to live on his property, affects his miorest?

I think that immediately it does, because it offends the feelings of owners of property. They think their privileges are affected, and therefore they are less inclined to spend their time in Ireland; that I do not think that any gentleman who has spent his time in Ireland; thet of the prevented from doing so in

future.

3582. Marquess of Salisbury.) He may not be prevented, but do you not

think that he will be disinclined to do so.

He may be at first a little disinclined, but | think that that feeling will be got rid of when things settle down. I do not think that any gentleman who has been in the hahir of residing in Ireland will give up doing so because of the

has been in the mant of residing in Ironal win after the control of the Land Act.

3583. Lord Brabourne.] You think, as I understand you, that the curtailment

of their legal rights does not affect their moral influence over the people?

I think the legal rights that have been removed improves their moral influence.

3584. Lord Tyrone.] Has it ever struck you what will happen to the unfortunate landlords who have charges upon their property?

Of course gendlemen who have properties overcharged either by the testamentary dispositions of their parents in favour of their brothers and sisters, or

(0.1.) TT2

who have encumbered their estates by their own extravagance, must necessarily

suffer. 35.85. But if these purchase clauses are not made workable, and I understand

from you that they are not working at present, how are those landlords who have those charges on their properties to get out of their difficulty? The position of a landlord who has charges upon his property would not be affected at all by the furtherence of the purchase clauses unless you were to allow an advance to be made, which would act as compensation to him, and

which would be far in excess of what the purchase value of the estate was. 3586. If he has no margin left after his rents are reduced, how is he possibly

to realise? The purchase clauses would not coable him to have a margin. Of course, the purchase must be taken at so many years' value of the judicial rents if the

rents are reduced. If he is tenant for life, and the money is invested in the Fuods, it will produce an income far less in amount. 3587. Chairman.] At present, as we have heard, there is oo saleable value

for land in Ireland? Generally speaking, it may be taken that there is a suspension of sales?

3588. Land has come to be unsaleable now, has it not? I think it may be said to be so at the present time.

3588*. How do you account for this? With the greatest respect, I think it is partly in consequence of the existence of this Committee.

2480. For how long has laud been uosaleable?

I should thick a year and half.

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3500. Has there been any change of late? No. I think not; at all events, no improvement,

3501. Has the value of the tenants' interest in the land ceased to be saleable? No: I think the tenants' interest is saleable, but it is not frequently sold.

3502. We have heard it stated here in evideoce that it sells for quite as much as it ever did before; is that your experience? I should think that the desire to sequire the occupation of land in Ireland is

as great as ever. 3593. We have heard of some instances in the south of Ireland where there was no tenant-right selling before, but where the tenant's interest is now selling

for as much as from 15 to 19 years' purchase; have you heard of cases of that kind? No; there was a case where a judicial rent had been fixed, I think in

the county of Kilkenuy, in which the teogot's interest was sold since the adjudication. 2504. For how many years' purchase?

I think it was sold for three years' purebase.

I think so.

3595. But you have not heard of the other cases that have been meotioned? No.

3596. Viscount Hutchinson. Putting aside the question of land being unsaleable at this moment, do you thick it will ever be saleable; I mean as regards the landlord's interest, not the tenant's interest?

I think it will. 3507. How are you going to create a market for it? That must be developed by the process of progress, and the desire of

gentlemen who have money to invest it in land. 3598. Do you think it likely that any extraneous purchaser will come in and try to put himself in the position of an Irish landlord in future?

3599. On

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Mr. LITTON, O.C. Continued.

3599. On what ground do you hase that belief? It is a matter of opinion. I myself would be very happy to invest money in the purchase of hand as a landlord, if I had it at my disposal.

3600. Marquess of Salisbury.] With all the prospects or possibilities of future legislation ? Υœ.

360: Marquess of Abercorn.] Do you not think that the uncertainty of what rents may be in the future, in addition to the difficulty of collecting them.

accounts, to some extent, for land being unsaleable That is one of the reasons undoubtedly. There is a combination of reasons. The very disloyal agitation which is now going on in Ireland is a strong reason; and so long as it lasts it will keep men from looking at the question at all, with

a practical view of investing money in land. 3602. Lord Brabonene. You do not dispute the statement of a former witness, do you, that, as to the two interests, the owner of the one is allowed to ascertain its value in the open market, and the other is deharred from

doing so? I do not concur in that way of putting the position of things.

3603. Will you please explain how you differ from it? I differ from it in this regard, that I think it is putting it in an unfair way towards those who maintain the policy of the present measure. The landlords' interest, according to my view (that is, his legitimate interest), has never been affected by the Act of 1881. Certain legal powers and privileges which he had over his tenantry have been taken away from him, but it has never been contended (at least, I never contended, and do not hold the opinion) that a itenant bas the right to deprive the landlord of that which belongs to him in return for

the occupation of the land. 3604. That is not quite an answer to my question; you have told us the tenant can ascertain the value of his tenant right in the open market?

Yes, subject to the right of pre-emption. 360s. You have also told us that the landlord cannot ascertain in this manner the value of his interest in the land, and that his interest is strictly limited by the court; that is the case, is it not, that there being the two interests they are not on the same footing?

No, assuming the position to be as it is, and as your Lordship states it, that each party has his interest defined, there is nothing to prevent the lamillord selling his interest in the open market. I think your Lordship's observation would go to show that the lamillori's interest had been unfairly dealt with, but assuming the landlord's juterest to be ascertained, there is nothing to prevent him selling it.

3606. Is he not limited by the operation of the Act, and is it not a fact that nobody is likely to buy but the tenant, and that he will huy only under exceptional circumstances?

He is not limited by the operation of the Act. He is restricted by the social coudition of the country, which is of such a character purchasers will not come forward.

3607. If three gentlemen sitting in court fix what is the value of an article that I have to supply, that deprives me submitting that article to competition in

the open market, does it not? With great respect I think not. You have an article limited by certain rights, and you sell that article with those restrictions, the restrictions in this case being the right of the tenant to have his rent adjusted.

3608. If I have an article for which I wish to obtain the best prices I can, I say to ail persons, compete with each other in the purchase of that article, and the effect of that competition is to bring me a high price. The landlord is prevented from doing that because he is only allowed to get such a price as three gentlemen sitting in court, guided by no uniformity of principle, choose to affix to it; is not that so?

тт 3 I cannot

(0.1.)

Mr. LITTON, Q.C. Continued. 30th March 1882.7

I cannot see it in that point of view. I think the landlord has full power, unrestricted by the Act of 1881, to take his property into the market, and get the best price for the reversion, which is the rent incident to the holding.

2000. Can you deny that the landlord is debarred from all competition practically :

With great respect, I do not see it.

3016. Is it not shown from the fact that land is unsaleable. Taking into consideration the desire to occupy land in Ireland, do you think it would be unsaleable if it were open to everyhody to compete?

Looking at the political position of the country now, I think it would be equally unsaleable, or very nearly equally unsaleable, if the Land Act had not heen passed.

3611. Chairman.] Have you had much to do with loans for the purposes of reclamation (

No, the reclamation clauses are under the Board of Works. The emigration clauses are in our department, but we have not found it practicable to work

3612. They have not been very onerous? They could not be worked as they are.

3513. You have had nothing to do with loans for the purpose of reclamation, as I understand ?

No. nothing whatever.

3614. Marquess of Salisbury.] I want to ascertain a little further what your opinions are about the question of a peasant proprietary. We have it in evidence from some witnesses that there is a considerable desire on the part of tenant

farmers to become owners in Ireland; is that your opinion? Yes, I think it may be said to be a considerable desire; but I think it is a desire which bas fallen down. It has been much greater than it is now.

3615. Is it in consequence of the advantages given to tenants by the Land Act that it has declined, do you think?

In consequence of the advantages they possess under the other clauses; and if I were a tenant farmer myself I would sooner keep my money than be subject, practically, to the same rent for 35 years, and place beyond my control the money which I would wish to give to my children as a provision for them in life.

3016. You do not think any political advantage would result from giving the farmers so strong a practical stake in the stability and tranquillity of the country ?

My impression is that the whole weight of that stability would be thrown into the scale of the first agitation that eropped up, which captivated public sympathy.

3617. So long as there is anything to be taken from the landlord, do you not think that there is a price offered to popular agitation which will always facilitate the renewal of agitation? I should not like to answer the question in the form your Lordship puts it,

that is, "so long as there is anything to be taken from the landlord." 3618. So long as the landlord is to be made not the possessor of what he is

possessed of now? So long as a class can be got sufficiently dishonest and numerous to wish to

appropriate to themselves other people's property, I would say, yes. 3619. Of course, if the particular class of property is defended by the less numerous class in the presence of this hypothetical dishonest class, the temptations

are larger, are they not, than they would be if that kind of property were entirely removed from their view? Certainly, because then the subject matter would not remain to he appro-

priated. 3620. If there were a very large number of pessant proprietors in Ireland, do

you

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tenant.

toth March 1882,7 Mr. LITTON, O.C. [Continued.

you not think they would be less likely to seek by agitation to possess themselves of the property of their brother proprietors, than they now are to possess themselves of the rights of the more wealthy class with whom they have less sympathy?

As regards property belonging not to themselves but to others, I quite agree with your Lordship, but looking at it in the wider political connection of the two countries, I think the whole weight would be thrown into antagonism to the connection between the two countries. I do not think that those who are disloyal would be made loyal by becoming proprietors. 3621. You think they would desire separation ?

I do, I believe that is the whole secret of the agitation at the present time. 3622. Viscount Hutchinson. Would you say that it has been so from the

heginning?

From the beginning, in connection with the movement of the Land League; outside the Land League I believe that there was an houest, active, loyal agitation, growing more active day by day, in regard to acquiring benefits similar to those we have under the Act of 1881. I refer to Tenaut Right Associations, which were promoted by men who were thoroughly loval to the connection and who did not ask at all to appropriate the proper right of others, hat only wanted to secure their own rights; and I believe that that agitation has been taken advantage of by the Land League for an ulterior object, as everybody can see, and which they hardly conceal themselves. Mr. Parnell's observation as to taking off his coat indicates it.

3623. Those advantages having been conceded you conceive the only safe manner of keeping up the connection between the two countries is hy leaving the landlords there?

I would prefer to see resident landlords in Ireland, and to see them greatly increased in number, under the conditions of what I believe to be giving the just

rights to the tenants as well. 3624 Duke of Martherough.] Have you ever considered what would be the effect of this fixing of rent for a judicial period of 15 years in the case of

another funine arising in Ireland? I have not considered the matter, but if I express an opinion I believe the fixing of moderate and reasonable rents for 15 years would enable the country

to hear a famine far hetter than it otherwise would. 3625. Do you helieve that landlords, having had their rents fixed for a period of 15 years, would be inclined to show any consideration to their tenants by

lowering their reuts considerably during a period of great pressure? My opinion of the landlords of Ireland is that they are so generous that they would under those circumstances lower their reuts. I do believe it.

3626. Supposing a contrary state of things existed, and that a very large

oumber of landlords, having had their rents judicially fixed, thought that they were estitled to those rents, what would be the effect of the tenants not being able to pay those rents during famine?

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The effect would be that the tenants would sell their interests, and have to leave the country, I presume, or follow some other business. They would have a power of sale; and if the landlord pressed for his rent in a famine time and the tenant was not able to pay it from other sources, he would have the means of paying it , in the value of his holding.

3627. The landlord would become the purchaser, would be not? The landlord would become the purchaser or allow it to pass into the hands

of a more prosperous person not affected by the famine. 3628. So that the effect of a famine occurring might be to pass a great many of the farms into the hands of the landlords again ?

It might be. 3020. Would not that he the signal for a new land agitation? No. I think not. I do not know that there has ever been any complaint of a landlord who has acquired land into his own occupation by purchasing out the 30th March 1882.7 Mr. LITTON, Q.C. Continued.

tenant. The distinction drawn in the Act between future and present tenants. is based upon that idea.

3630. If the landlord, after having purchased the tenant's holding, let it again, the new tenant would become a "future tenant"? He would be a "future tenant" as the Act now stands.

3631. Then the beneficial effects which you attribute to the Act would be

wiped off, would they not? If you could conceive it possible that everyone of those tenants would become future tenants we would have the country back again into a condition of freedom of contract, and the question would be whether the circumstances of all parties

would not be so much altered for the better that there would be no necessity for throwing the protection of adjusted rents over the tenant. 3632. Marquess of Salisbury. That may be a question on which it may

be naturally supposed the tenants and the landlord would take a different view. It is reasonable to suppose the landlord and tenants would take different

views at any time. 3633. And the tenants, being the more numerous, their view would probably

prevail, would it not? That does not follow, I think.

3634. Lord Tyrone.] I suppose that you consider that land at the present moment is very much reduced in letting value, compared with what it has been for a good many years past, that is to say, if the landlord has the land in his own

possession to let? No, I think the landlord would get quite as high a rent as he ever did, for the sake of the occupation.

3635. My point is this: can the farmer expect to make as much profit out of his land at the present day as he could five or six years ago? I think not.

3636. Therefore the land, I may take it, is reduced in letting value? I think it is, undoubtedly,

3637. Do you think it would have been fair, under those circumstances, for a landlord to have fixed his rents for 15 years on the scale of prices that were prevailing in 1876 and 1877?

You must necessarily fix them upon existing prices, having regard to the average of past years.

2628. I want to know whether that would have been fair?

I think there is no other way of fixing rent at any time, excepting with reference to the existing prices, and past prices, and future probable prices.

5630. Do you think that future probabilities should be taken into account? Yes, if I were letting my land to my tenant, I should take that into considera-

tion, and no doubt he would take it into consideration also. 3640. In fixing prices at the present moment you will only go back a certain number of years, and look forward a certain number of years, would you?

If I were letting a holding in my own possession, to a future tenant, that is a man with whom I was not adjusting an existing rent, I would do so. 2641. Under those circumstances, do you think it is fair to fix a rent for 15 years at a time when, according to your own statement, land is extremely

depressed in letting value I should prefer to fix it for 30 years.

3642. Would you take the time at which land was at the very lowest letting, value that it has been at certainly during the lost 25 years, and fix it at 30 years

at that rent? The longer period of duration, I think, gives a greater impetus and secority to the tenant to expend his labour and capital in improving his bolding. I think in many instances 30 years would have been a far better number of years than 15 years. When I came to fix the sent I would take into consideration the fact

that the tenant is to have the land for a certain length of time, end it would be an element in my conclusion. I do not judge that the rent shall be necessarily according to the existing prices when I fix a rent. 3643. If you were fixing a judicial rent, do you mean?
No. If I no fixing a judicial rent, I am fixing the rent of a man who is in

occupation of his land, and that is a wholly different question to that which I understood your Lordship to be asking, namely, what I would do if I were seming land to a future tenant. 3644. I ask with regard to a judicial rent whether it is fair to fix that judicial

rent at what you have stated to be the most depressed time?

It is fixed not with reference to existing prices alone, but with reference to the consideration of existing circumstances; and that rent is subject to revision at the end of 15 years, when it may either be raised or lowered. For 15 years it is fixed upon a basis arrived at upon the consideration of existing value, in

3045. Has it struck you that it may be extremely difficult, if you multiply these Sub-Commissions, for the landlords to get valuers?

There is a difficulty in some cases, but I do not think it is a very great difficulty. I think you can get respectable valuers. The eggagements may sometimes clash. A valuer who is much sought after may probably have two eogagements in different places on the same day or in the same week; but they can generally arrange that matter. There are difficulties, of course, of that kind, but I do not think there are any difficulties that we should not expect to meet with in administering an Act of Parliament of this kind.

3646. Up to the present time, has there been any call for the number of valuators that are now certainly demanded?

No, certainly not, up to the present time.

combination with past and prospective value.

3647. Therefore, naturally, you may suppose that there is rather a scarcity of them, may you not? There is ; and when we find a good valuer we try to catch hold of him as

soon as we can for ourselves. 3648. Therefore, do you not take from the landlord mother chaoce?

We do it for our own sake; or rather it is for the landlord's benefit that we should take the best men we can get.

3649. Lord Kenry.] You spoke of taking into consideration the prospective value. Do you think land likely to depreciate in general value in the next 15 years say?

Does your Lordship mean judging by American competition, as they say?

afiso, Yes? No. I think we are at the low end of the scale at present. I think it is likely that the value will rise. If we could once get peace in the country, I have no doubt that everything would rise in value.

3651. Duke of Somerzet.] You have spoken of the social position of the landlord and the influence that his property gives bim; but under the Actof 1881 is there any inducement to him to improve his property?

In regard to improvements, that would work out to the tenant's advantage; I may say that there is not.

3652. The improvements must be left to the tenant, you thick? They must naturally be left to the tenant; and of course they would be left to him,

3653. Then we have been told in course of the evidence that the tenants, in fact, make very few improvements; is that your view? Yes; up to the present time they have bad no inducement to make any

improvements. Uυ 3654. You (0.1.)

 $3654. \ \,$ You think that this new law will stimulate them to make improvements? Certainly, I think so.

3655. Lord Tyrone.] With regard to cases of setting aside leases, which have come before you under the 21st section, what arrangements do you make

about costs?

As a general rule, the costs I think have followed the result; and I can give you a few particulars, if you like to have them, as regards the number. We had 1,485 applications to set aside leases, and there were only 26 set aside by

adjudication; or ahout five per cent. of those heard.

3656. I think the Chief Cummissioners extended the "first occasion" of their sitting?

That is so.

3657. With what view was that done?

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With a view to further the plain intention, as we read it, of the Legislature in affording the tenants an opportunity of leaving the benefit of the 60th section of the Act.

3658. Marquess of Salisbury.] That is to say, the opportunity of having the new rent fixed as from the passing of the Act?
Yes; giving them the henefit of the adjudication as having taken place on

Yes; giving them the henceht of the adjudication as having taken place on the day the Act passed.

of so, I and Transed In the case of a tenant who served a notice upon the

3659. Lord Tyrene.] In the case of a tenant who served a notice upon the "first occasion" not coming before the Court for a length of time, what will take place with regard to his rent?

In the event of an adjudication upon the particular case not taking place for

12 months, the judicial rent will run from the gale day next after the 22nd August 1881.

3660. My question refers more particularly to the recovery of the rent by the landlord? There is nothing to prevent the landlord recovering intervening rent until the adjudication takes place.

3661. When the adjudication takes place, would the landlord have to hand back the difference?

I apprehend that he would.

3662. Earl of Pembroke and Montgomery.] With regard to the cases of breaking leases, has the landlord any notification given to him before he comes into

Court of the case he will have to meet?

Not any more notification than the originating notice declares, unless he comes for particulars. There have sometimes been applications by the landlords to get the names of the parties who are alleged to have been guilty of coercion and undue influence, and then they have got those names.

3663. Where an application is made for the names, it is never refused, I suppose?

It is never refused; at least, I have not known it to be refused.

3664. I want to go back for one moment to the question of fixing fair rents; considerable alarm has been caused by the kide that the Sub-Commissioners are not content with taking the rent off the tenant's improvements, but actually made deductions on account of the tenant's improvements from the natural value of the land. I suppose that is an idea which is entirely unfounded, is it not?

I sm not aware of its existence.

3665. There is nothing in the Act that would justify them in doing so, is
there?

I apprehend not.

3666. I mean, suppose the natural fair rent to be 20 L a year, no amount of improvement that the tenants could make would possibly reduce that by a

shilling? No, certainly not. 3667. Then 3667. Then you think that all the fears that are expressed, that the rent, in course of time, may be swallowed up on account of reductions for tenant's improvements are entirely futile?

I should say quite so.

3668. You told us this morning that when the farm came to he re-valued again by the Court the tenant's improvements would be taken as being what

again by the Court the tenant a improvements would be taken as being what they were when the farm was first valued, and that they would start afresh from that point?

I apprehend that that would be the result.

co- Mich and a depart of the institu

3669. Might not a tenant claim now a reduction of rent on account of a stone wall which be had built, and at the end of 15 years claim another reduction of rent because he had knocked it down again as an improvement? Hardle, I should think: I do not blink any Commission dealing with it 15

Hardy, I should taink; I do not taink any Commission dealing with it is years hence would look upon that as a matter in respect of which the rentought to be reduced.

3670. How could the Commission prevent it; they would first take the tenant's improvements as they stood recorded, and then the tenant would say, "Hare is a stone wall knocked down and fields consolidated "?"

"Here is a stone wall knocked down and fields consolidated"?
It would be for the Sub-Commissioners or the Commissioners who then adjudicated upon that case to decide whether they considered it an improvement of the farm to knock down the wall and the cost of doing it.

3671. Duke of Norfolk.] According to your view they would charge for it, would they not?

The cost of knocking down the wall if deemed an improvement might be an element taken into consideration.

3ii72. Earl of Pembroke and Montgomery.] In spite of the fact that the tenant had already got a reduction of rent for putting it up?
Yes, 15 years ago. It is quite possible that such a case might arise.

3673. Would not the value of a tenant's improvement of that sort have to be deducted out of the natural rent of the farm which helongs to the landlord?

Where olse is it to come from?

No, I do not tay so. A tenant can only claim a deduction in respect of an improvement which has added to the letting value. He cannot reduces it, all have already stated, below what would he its natural condition and its value if it were in the landlord's own hands. I apprehend you look at a farm with all its aroundings, as if it were in the alandlord's hands for letting, and you ascertain

surroundings, as if it were in the national values of the considerable in the competition value. From that you give credit to the tenant for file outlay, so far as it has added to the letting value of the land; exclusing again out of that condictention the potential qualities of the land which might be called into existence and increase the value by reason of that expenditure.

3674, If the Court at the end of 15 years has got no defailed record of the

value of the tenact's improvements, and what they were, I do not see how they are to know what was done before?

Your Lordship is so far right as that they will have nothing before them but

nour Lordship is 80 far right as that they will have nothing author them but the adjudication made 15 years before in addition to whatever evidence is admissible as to improvements by the landlord or the tenant during the intervening period.

3675. Lord Brabourie.] Have you anything to say about the emigration clause? Have you heen able to act under it at all?

No. We have had, in fact, no spplications from any qualified body.

3676. Is it a difficulty that there is no body qualified to move in the matter under the definition of the Act?

(0.1.) UU2

Yes,

30th March 1882.] Mr. LITTON, Q.O. [Continued.

Yes, it must be a public body, State, or Colony. I would like to see the emigration powers extended. I think we ought to have power, or the boards of guardians, or some authority, ought to have power to assist individual cases of emigration.

 $_{3}6_{77}.$ If a clause is intended to perform a particular thing, and fails to perform it, it is no disrespect to the Act to say that that particular clause requires amendment, is it?

No; I quite accept that.

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The Witness is directed to withdraw.

Ordered, that this Committee be adjourned to Tuesday, 25th April, at Twelve o'clock.

Die Martis, 25° Aprilis, 1882.

LORDS PRESENT:

Dake of NORPOLE. Dake of MARLBORODOR. Duke of SUTHERLAND. Marquess of Salisbuay. Earl of PEMBROKE and MONT-

Earl STANHOPE.

Earl CAIRNS. Viscount HUYCHINGS. Lord TYRONE. Lord CARYSFORT. Lord KENRY. Lord BRABOURNE.

THE EARL CAIRNS, IN THE CHAIR,

MR. JUSTICE O'HAGAN, is called in; and Examined, as follows:

3678. Chairman.] Before your appointment to the office which you now hold you had much experience as county court judge in Ireland, I think? Considerable.

3679. How many years?

Fourteen years.

3680. And you were examined, I thick, as a witness before the Committee of the House of Commons, which was called Mr. Shaw Lefevre's Committee? I was.

3681. Were you also examined before Lord Besshoough's Commission? No, not before either of the Commissions,

3082. Would you allow me, in the first place, to osk you some questions with regard to the course of procedure in fixing judicial rents; what is the length of notice which a landlord receives of the hearing of a case for fixing the judicial rent of his holding?

Ten days has been the minimum

3683. Is there any reason why the notice should not be longer? We followed at first the ordioary rule in cases of notice of trial; it is now longer than ten days. It is very commonly a fortnight or three weeks.

3684. We observe in the printed list of the appointments made for the Sub-Commissioners on their present circuit that it was stated in a note at the end that a list of cases might be had two or three weeks before the dates fixed; that would be somewhat longer?

That would be longer, of course.

3685. It has been pointed out to us that the analogy between notice for trial in one of those cases to fix a judicial rent and notice of trial of a cause before a court of justice is not a perfect analogy, for this reason, that in cases in the law courts there is a course of pleading previously which informs each party of whot the case is, whereas in a trial to have a judicial rent fixed, there is no pleading, and this is the first notice the landlord receives. Does that appear to you to be a just observation? (0.1.)UU 3.

Your

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by the tenant.

Your Lordship will allow me to say that our experience has taught us that in the great majority of instances, I might say, the vast majority, the case is extrumely simple, and the cases are almost infertical in their factors. The tenant tolk his story with respect to the real the hast deep fragge, and my increase of value. Then as a pergod as the proceedings of the Sol-Commission, the Assistant Commissioners themselves see the holding; with regard to the proceedings before us, we have the report of our own values to go upon, and that in nine cases out of ten forms the case. The tunnal speaks to improve, from that the landscale in soft takes in purprise; in fact, (do not remember,

single instance in which a landlord was taken by surprise as to the case made

3566. The cases to which my question was referring were not cases before the Commissions Court up you would call, but televis in Sub-Commission and Court up you would call, but televis in Sub-Commission can be compared to the court of the

Your Lordship is aware that upon receipt of the originating notice, the case is in Court as against the Inndiord, and as in other cases where the case is ripe for hearing, he might naturally thee hegin to prepare for the trial; he knows when he receives the originating notice that there is a case to be tried.

3687. Is the originatiog notice served upon the landlord, or merely sent to the Court ?

It must be served either on the landlord or his agent as a matter of necessity. 3688. As well as sent to the Court?

The case is not in Court unless the notice is proved to have been served upon the landford or his agent. We make the agenth the representative of the landford under our rules, and so he is for all practical purposes, and it must be served upon him. In one case is which it had not been served upon him we would treat the case a not in Court, and even if, by seedlent, the notice of notice of the court of the

368g. At the same time, until he has notice of when the trial is to take place, he cannot arrange for the attendance of surveyors or professional assistance? No, he cannot arrange for their attendance.

No, he cannot arrange for their attendance

3690. But you do not see that there would be any difficulty in extending the notice of trial to three weeks, for example?

No, I think not, and we are now, in most cases, giving three weeks' notice.

3691. Now would you let me ask you about the arrangements for hearing cases in any particular place by the Sub-Commissioners. We understand that

you send down a certain number of cases to be heard by the Sub-Commissions at each particular place; that is so, is it not? That is so.

3692. What is the number that you generally send down? I think it is about 50 that we send down.

3693. It has been stated to us that a great deal of inconvenience and expense arises with regard to cases which are not heard, and which are made remanets.

(0.1.)

Mr. Justice O'HAGAN.

Continued.

It has been stated that the parties are in attendance, and that they have to pay their valuers and their professional advisors, and that, after all, the 50 cases are never heard, and that sometimes very few of them are heard, and the expense is thrown away? That was the case to a grenter extent formerly than it is likely to be here-

after. In the cases that have been sent down to be heard, up to the present time, as a general rule, only a week has been given for each towo. Each town represents a poor law union, and we allotted a week for the hearing of the cases in each town. We found by experience that to some extent the result took place which your Lordship mentions, and accordingly we have changed that plan, allowing a fortnight where there is much business, and we hope there will he less remanets in future.

3694. We heard of one instance, I think, where, out of 50 cases, five only were heard, and 45 were made remanets. Would there be any reason why, whatever number of cases might be sent down to be heard at a particular place. the whole of those should not be heard, unless both parties agree to defer the hearing to some other time or some other place?

With respect to an absolute rule of that kind, the difficulty would be this,

that we must provide a day for the hearing of the cases in the succeeding towns, just as in cases on circuit, and if the Sub-Commission remained at a particular town until they had disposed of all the cases in that town, there would be a postponement of the days fixed for the succeeding towns, and persons would arrive there with their witnesses and professional men, and he put to expense and delay.

2605. Is not that, after all, merely stating what is obvious, that there must he an inconvenience on one side or the other ? Certainly.

36q6. Why should not those who have been put to the expense, and have their witnesses and advisers ready, he first considered?

It occurs to me that it would be better for the present to continue the system that we have adopted, and give a time, say, a week or a fortnight, according to circumstances, selecting only such a number of cases as we find by experience msy, on the average, he got through, and then to go to the succeeding towns; we could have no certainty in our pre-arrangements otherwise, and what we would have to do, if your Lordship's suggestion were adopted, would be to send a Sub-Commission down, leave them perfectly free to remain at any town, for an indefinite time; then go on to onother town when they had finished the business there, which course would leave the persons in the succeeding town in doubt as to any chance of their cases coming on. We endeavour to arrange that the average time shall, as far as possible, coincide with the average amount of business, and in doing so, I think we do our hest.

3607. I do not, in what I am about to suggest, ask you to pledge yourself without much more consideration; I only throw out the suggestion in order to have the henefit of your opinion upon it. Would there appear to he any difficulty in this, to make the arrangements as you do for the sittings of the Commissions at the different towns for certain dutes, and to say that those arrangements were provisional, and that the commencement at a particular town might be delayed by reason of the husiness at a previous place not having been finished; because, with the telegraph there is, as you know, great facility now for communicating as to the progress which is being made, and in that way the parties could be advised when the day drew near, could they not, and would they not then he able to decide whether they should keep their witnesses waiting or not?

It appears to me there might not he so much objection to that course, but I will consult with my colleagues.

3698. Now, will you let me ask you with regard to snother matter which is said to be a very practical one; you are aware that, under the Act of 1870, when a tenant made a claim for compensation in respect of improvements he was required by the Act and by the rules to furnish a statement of the nature of

U U 4 Printed image digitised by the University of Southampton Library Digitisation Unit

25th April 1882.7 Mr. Justice O'HAGAN. Continued. those improvements, and the time when they were made, and some particulars

of that kind ; it is stated that the owner of land is at great disadvantage, under the present system, from not knowing what kind of case will be made by the tenant with regard to the improvements, the value of which is to be deducted from the rent; he does not know what the improvements are on which the tenant will rely, or when they were made, or at what expense they are said to have been made; what is your opinion as to that?

We have adopted the practice of ordering particulars to be given in any case in which the landlord asks for particulars, stating that he is not aware of the improvements that may be proved against birn, and we have now made a new rule making that a matter of right in all cases where the valuation is above 10 L. With respect to small cases valued under 10 L, we think it might lead to very considerable hardship and expense to make that a matter of course; but we have reserved a power in any special case of that kind to make an order on application on special terms.

3699. Will you allow me to ask you with regard to the new rule you have made, is it the rule that the landlord may apply in Dublin for particulars, or that he may, as a matter of right, demand the particulars from the other side in the country?

He may demand them in the first place as a matter of right from the tenant in the country, and on failure to get the particulars he can apply to the Commissioners in Duhliu, who would be guided as to the costs by the conduct of the parties.

3700. Visconnt *Hutchinson*.] When was that rule made? It has been made within the last month, but hefore that we were in the habit of giving particulars in every case where application was made on sufficient ground. We found that in far the greater number of cases the landlord did not ask for the particulars, or that he was well enough apprised that no improvements could be proved against him.

3701. Chairman.] In the rule that you have made do you leave the innilord to apply for the particulars in whatever form he thinks best : and the tenant to supply them in whatever form he thinks best, or have you prescribed some particular form in which the application is to be made, and which form is to be filled up by the tenant?

No, we have not prescribed a form. We think it hetter to leave the landlord unfettered as to the demand he should make.

2702. Does it not occur to you that it might carry more weight and lead to more attention being paid by the tenant if the landlord was enabled to make the demand on what I may call a court paper, and not specifying in grest detail but specifying in general detail the sort of information that the tenant might be called upon to give?

Yes; that might be done, certainly.

3703. You know very well that in country districts, amongst ignorant people. the authority of a court has more weight and leads to much more attention than a demand inter partes?

Yes, of course. There might be a form dividing the improvements say into buildings, drains, fences and other classes of improvements, and asking the tenant to give the particulars of those various classes of improvements that he had made.

3704. Lord Tyrone. Supposing the tenant sends in a return of those improvements, can say other improvements he taken into consideration by the

Sub-Commissioners if he makes application for them at the time of trial? I should think that a tenant would not be precluded if he could show a clear case that he was mistaken in the improvements he returned, but that would be subject to the discretion of the Sub-Commission to adjourn the hearing, and impose costs upon the tenant.

3705. Chairman.]

Continued. 25th April 1882. Mr. Justice O'HAGAN 3705. Chairman.] Just the same as in any other court, you mean, amending the particulars, taking care that no injustice was dane to the other side?

Just so. 3706. We were teld that, in the first instance, in the returns which the Sub-Commissioners were to make to your Court as to their proceedings, there were certain columns which they were to have filled up, showing the value of the tenants' improvements, and the annual sum in respect to the tenants' improvements to he deducted from the present rent in fixing a judicial rent, and we were further told by Mr. Litton, I think, and some nthers, that in practice it was found that the Sub-Commissioners did not fill up those matters of detail, and that they

ceased to he required of them. Does it not appear to you that very considerable advantage would be obtained by having a return of that kind from the Sub-Commissions? I can only say with respect to that question, that Mr. Litton and Mr. Vernon and myself, considered the matter with the greatest possible anxiety and deliberation, and we came to the conclusion that it would be an unwise step to ask for that return. In the first place, there is n great portion of Ireland to which it would not be applicable, viz., in Ulster. In Ulster we found that the valuers, both far the leadlurd and the tenant, did ant really estimate the improvements as a separate thing, and then deduct the improvements, but that they being habituated to the Ulster Tenant Right, value in their own way the landlords' interest, and the tenams' interest; and so rooted did we find that method in be that it was often with difficulty that we could get a valuer to tell us what, in his opinion, the holding would bring if free in the hands of the landlord to let. He said, "I never luoked at it in that point nf view." In respect to the Ulster Tenant Right, they value the landlord's interest and the tenant's interest. Now, in cases of that kind, when the rent is fixed with respect to the tenant right, there

would be great, indeed I think insuperable, difficulty in getting the Sub-Commission to insert a station mentioning the precise deduction they had made, from what would atherwise be a fair rent on account of those improvements. 3707. Putting aside the case of Ulster for a moment, which we might perhaps lonk at separately, does it occur to you that in parts of Ireland, where the Ulster custom does not prevail, there would be any difficulty; I mean any difficulty that nught to be looked upon as insuperable?

It certainly might be done; we might require it, but we were of opinion that it would not be wise to do so. We were in npinion that there might be, possibly, great discontent and quarrelling with the result, if persons had it in figures; u tenant might say, for example, I established so much in the way of improvements, and for all that, I find the deduction made is ant so great as it ought to be.

3708. But in the first instance you did require it?

We did, but it was upon the representations of the Suh-Commissioners, and upon full consideration, that we came to the conclusion that it would not be a wise thing to continue to require it.

3700. Were the representations of the Sub-Commissioners un the subject made to you in writing or verhally? Verhally.

3710. From all of them?

Some of them. 3711. I suppose you would not differ from the view that it is the duty of the Sub-Commissioners, in their nwn mind, at all events, to go through the process of sacertaining what the value of the land is first, that is the fair rent of the land, and afterwards as a separate mental process, ascertaining what the value of the improvements made by the tenants is, so as to deduct the one from the

Yes; and then, of course, to have regard to the decision of the court of appeal in Adams v. Dunseath, and make a deduction again from that with reference to the (0.1.)

25th April 1882. Mr. Justice O'HAGAN.

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[Continued

the tenant's enjoyment of those improvements that were made before the year 1870, having regard to the rent be was paying, and other matters mentioned in the final Clause of Section 4 of that Act.

3712. Quite so; I meant to say to take the value that is to be allotted for the improvements at the time of adjudication?

3713. Does it not occur to you, for example, with regard to appeal, that there would be a great advantage in having that information stated, because

both tenant and landlord might be satisfied with the finding as to improvements, but not as to rental, or, vice verse, that they might be satisfied with the finding as to rental, but not as to improvements? Undoubtedly it might make the thing clearer in the matter of figures, but I

would rather your Lordship would not press me as to the reasons which induced us to hold it not to be wise. I think it would create more discontent than it would allay. 3714. Marquess of Salisbury. You mean the revelation of your reasons

would create more discontent than it would allay?

3715. They were ressons of policy, in short? They were reasons of policy.

37:6. Chairman. But without pressing you, as you desire, as to the reasons which led to your decision being such as it was, allow me to ask you this; do you not think that it would tend to secure clearness of judgment on the part of the tribunal if they had to go through this mental process?

They ought to go through the mental process, but they may differ very much, for example say, as to the percentage they would allow upon the tenant's outlay. One Sub-Commission might conceive that they might allow a larger, and another a smaller, percentage. I think the Master of the Rolls, in his judgment in Adams r. Dunseath, spoke of so high as eight or teo, or even a higher per-centage. The Sub-Commissions might he disposed to go much lower in considering what they would deduct from what would otherwise be the fair rent, on account of tenauts' improvements; they might differ in their views, and their difference might be very well warranted, but it might not be possible at all times to explain and justify the various grounds which led them to that difference, or which led them to the precise deduction they thought it right to make on account of tenants' improvements. Taking all those things into account, we thought it would be better upon the whole not to state in figures the value of the improvements, or the amount which had been deducted from the fair rent oo account of them; but we thought it quite right that they should state the improvements themselves, in order that those might be a guide for any future adjudication when the present 15 years have elapsed, in order that it might be known what the improvements were upon which the present judicial rents proceeded, and we have made a rule for that purpose.

3717. We will come to that in a moment, but will you allow me to ask you this: supposing that the Sub-Commissioners do not state these details as to the per-centage which they allow, and so on, how do you deal with it when it comes to you upon appeal, when you are not aware of the basis upon which the calculation which is appealed against has been made? Our appeal is a re-hearing. We hear the case de novo. We hear the

evidence for the tenant first, and then the evidence for the landlord, and we have the assistance of our own valuer, and come to our own conclusion. We come to our own conclusion, subject to this modification, that if we differ in a very triffing degree from the Sub-Commission, we then say it is not worth while changing the decision, but we act altogether upon our own judgment on appeal, and make our own deductions.

3718. Then does it not appear to you that when both parties are left in entire ignorance as to the basis on which the calculation has been made by the Sub-Commissioners, that it is very much more likely to multiply appeals if 954 Annil 1882.7 Mr. Justice O'HAGAN. Continued.

SELECT COMMITTEE ON LAND LAW (DEPLAND). they think that they are to have an entirely fresh hearing without reference to anything which has been done before, would not the party who thinks he has been unsuccessful be very certain to try that chance

I do not think in practice it has much effect. I think in general the landlord, when he appeals, appeals hecause he thinks the rent has been reduced too low : the tenant when he appeals, appeals because he thinks the rent too high at present, and that in my opinion is the groundwork of nearly all the appeals, and I have been quite surprised to find how small a factor in the determination of the judicial rents the improvements have been one way or other.

3719. Marquess of Salisbury.] Do you mean in the mind of the Sub-Commissioners or in your own mind? In our own minds in determining our appeal.

3720. Chairman. Do you mean that they form a very small item of deduction? As a general rule, so far as our experience has gone, they form but a very

small item of deduction. 2721. Marquess of Salisbury. You say that the appeal is entirely a re-hear-

ing, but you cannot have all the evidence before you on which the Sub-Com-missioners decided, because it appears that a large part of that evidence consists of the Sub-Commissioners own personal inspection, and there is no machinery for hringing that before you?

No; we take that into account just as we would the statement that a com-No; we take that into account just as we would the statement that a com-petent person had gone out and seen the place. We have our own valuer who values in detail. I believe Mr. Littus placed before your Lordships a paper containing one of the reports of our valuers. That contains in detail all the basis upon which our valuer goes. We have that and we take that into account. It is in a very great degree our guide, for we have very great confidence in the gentlemen we have got as valuers, but we take into consideration also the fact, that two gentlemen have gone out and seen the farm and estimated its value.

722. But that is an un-cross-examined-upon opinion Of course it is. Two competent gentlemen, such as the Sub-Commissioners are, have gone out and seen the farm and given an opinion upon it, and we

take that more or less into consideration. . 3723. Chairman. I understood you to look upon it as a re-hearing in which you put aside everything that had taken place before and treated it as tabula

It is a tabula rasa except to the extent that I have stated. If we come to a conclusion differing hot a slight degree from these gentlemen, we say it is not worth while to change the decision

3724. If it was a matter of a few shillings, you mean?
Or a pound, and so on, on a large rent. We have made changes to the extent of a pound where the rent was small, but if it he s large rent we would not change, for a pound or two; and if the rent be small, we would not change for a few shillings.

3725. You have spoken of the two documents we were furnished with by your own valuers, and the detail into which they go; would it not be satisfactory that a similar statement of the elements of decision should be furnished by the Suh-Commissioners also?

I can only say that we have come to the conclusion that it would not. We do not think that it would be wise to have all those elements; we think that it would increase instead of diminishing appeals.

3726. You are sware, I suppose, that the courts are very familiar with what are called re-hearings, but in those re-hearings the Court of Appeals always pays most material consideration to the ratio decidendi of the court below, and ore it differs therefrom ? Yes, if there has been a formal judgment, of course, that is so, but it may

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Mr. Justice O'HAGAN. Continued.

happen that the decision of the court below was the verdict of a jury which was given without any reasons.

3727. Where there is a verdict of a jury there is never a re-hearing?

There may be a new trial.

3728. There may be a re-hearing, not for the purpose of altering the decision, but merely for the purpose of sending it back again to another jury?

Of course, if it be the decision, for example, of a court of first instance in equity, the reasons of the judges are to be considered.

3729. Even upon a re-hearing?

Yes, but with us it is generally a question of anomat of value. Questions of its warmerine shee, and when they do arise, the quickled libu-Dommistioner, if if may term him one the left, and the state of the state

3730. My question intended to assome that it was a question of value, but to point to this, the value consisted of separate and entirely independent elements, and although it might be difficult to give a reason for the value put upon each element, still it would be desimble to have those elements put upon record in order that they night be weighed one against the other, would it not? We would have no objection, so far as regarded procedure, to require our Sub-

Commissions to state the value of the improvements that they have dis-rowered, and the amount that bey have deducted from the rent on account of them. When I say we have no objection, I mean we would find no difficulty, as a matter of procedure, in lawing that done, but as a question of wisdom, I and my two colleagues came to the conclusion that it would be an unwise thing.

my two colleagues came to the conclusion that it would be an unwise thing.

3731. Marquess of Salisbury.] You think it would be an unwise thing to
publish this information?

Yes, I think it would be an unwise thing to publish this information.

3732. But would it not be unwise to go so far as even to have it for your-selves?

That we may require at any time; the notes of the Sub-Commissioners ought to state that, and in any case in which we wanted it we could have it.

3733. They do usually do that, do they?
The legal Sub-Commissioner makes notes, in which he gives all the particulars, as a judge does of the things that are proved.

as a judge does of the things that are proved.

3734. Earl Stanhope. There is no shorthand writer present at the Sub-Commissious:

No, but the legal Commissioner takes down the substance of all the evidence, and he has it there for us.

3735. Marquess of Salisbury.] Does be return to you bis own conclusion, classified and divided, so as to show how much of it is due to each consideration?

Not by way of formal return. 3736. And if you do have it you have it at your special desire? Yes.

Yes. 3737. Have you often asked for it?

3737. Have you often asked to I think not.

3738. Chairman.] But would it be according to any preordent that we have in judicial proceedings, that there should be a communication between an ordinary court and a court of appeal of the reasons for their decision, or the grounds of their decision, which were not made known to the parties?

I think not, and that is the very reason why I think it would be impossible

.

[Continued.

to have a return made to us privately, and not communicated to the parties and the public. I do not know whether your Lordship is aware of it, but I might mention that at the hearing of our first appeals in Belfast, the question was raised with respect to the report of our valuers, and it was very strongly and very ably argued that we ought to keep those sacred as a matter intended simply for the information of the Court; it was argued at great length, and we thought there would be very great convenience indeed if we could nerrely use the reports of our valuers as material for forming our own judgment, without making them public, but I came to the conclusion that that would be so etnirely opposed to the whole spirit of our jurisprudence that it would be impossible to do so.

[730. Lord Tyrone.] I would like to ask particularly with regard to the decision which has lately been given in Adams v. Dunseath, how can the landlord's counsel possibly tell whether the Sub-Commissioners are carrying out the lines of that decision in their decision without these facts being stated?

I should think that he ought to know that the gentlemen who are the legal Sub-Commissioners, and who are able and competent gentlemen and gentlemen of honour and principle, will obey faithfully the decision of the Court of Appeal. They are bound to do so in law, and I am perfectly certain that, if any of them departed from it, they would tell us, but none of them would think of doing so.

3740. Marquess of Salisbury. You have a full conviction that they do that ? A perfect conviction. I do not know more honourable gentlemen living than they are.

3741. Lord Tyrone.] Was not this particular decision a most complicated

decision? The decision in Adams v. Dunseath involved four points. First, they decided the meaning of the word improvements, which, I may mention, was not raised or argued, or made the subject of decision below at all. However, they have decided it according to the definition in the Act of Parliament. Secondly, they decided that the expression "Predecessors in title" hore the same meaning in the Sub-section (usually called Healy's Clause of the Act of 1831) that it did in Section 7, although in Section 7, according to its literal interpretation, it would appear as if it were confined to the case of a tenant seeking compensation on quitting his holding. That was the second decision, und, in my opinion, much the most important decision given by the Court. Thirdly, they decided that the enjoyment by the tenant, during the currency of his lease, of the improvements which he himself had made was not of itself compensation within Healy's Clause; and, fourtbly, they decided that the last Suh-section of Section 4, of the Act of 1870, which says, that with respect to improvements made before 1870, the Court should take into account in reduction of the tenent's claim, the actual enjoyment by him of the improvements that have been so made, together with the rent paid, and any benefits which he may have received from his landlord-they decided that that also applied in the fixing of a fair rent.

3742. Chairman.] That is where there was not a lease, is it not? I think that decision could not be confined to the case of the absence of a lease. I think it would apply whether there was or was not a lease.

3743. I thought I understood you to say the third point referred to enjoyment under a lease?

That is with respect to the interpetation of Healy's Clause, pure and simple. Healy's Clause says, that no rent shall be allowed or made payable under this Act hy any tenant in respect of improvements effected by him or his predecessors in title, unless he has been paid or otherwise compensated by the landlord for them. Then, upon the interpretation of that Suh-section alone, the Court of Appeal decided in accordance with the decision of the Court below, that the enjoyment during the currency of a lease was not compensation by the landlord; but then they further decided that the Suh-section of Section 4 of (0.1. x x 3

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25th April 1882.] Continued. the Act of 1870 applied to Healy's Clause in estimating a fair rent, and that

I apprehend would take effect whether the enjoyment was during a lease or outside of it. 3744. Lord Tyronc.] Have those decisions in Adams v. Dunseath been sent

round to the Sub-Commissioners :

3745. They have been sent round by the Chief Commissioners, have they? I am not aware that we have sent them. We have got a great number of the reports of the case, and of the decision in Adams v. Dunseath, prioted for our own use, and I helieve they have been sent round by us; but whether they have ur not, I am aware that the Sub-Commissioners have all got them.

3746. Chairman. Did I understand you to say just now that you had made a recent rule with regard to the specification of the improvements being taken into account?

3747. With respect to Sub-Commissioners mentioning what the improvements were that were taken into account :

2748. What is that rule; I do not mean the words of it but the general

effect of it? It is a form that they should fill up, stating what improvements were established before them as having been made by the tenant.

5749. Will that come into operation in the present sittings for the first

time r It will come into operation in the present sittings for the first time.

275:. Marquess of Salisbury. But they are not to state the value?

No, we abstain from stating the value, upon the grounds I have stated to your Lordships. 3751. Lord Brabosawe. That would enable them to identify the particular

improvements at the end of 15 years, would it not? it would.

3752. But it would not give them any guide as to the value?

It would not give them any guide as to the value. I may indicate that one of our reasons was this: supposing that improvements were established, for example, and that the Suh-Commission did not think it wise to value, say, at the high standard of interest upon those improvements laid down by the Muster of the Rolls, there might be discontent among the tenantry, although in the result the decision might be a perfectly just one. The solicitor for the tenant might say, I will appeal from this decision; you have no right to give us four or five per cent. where you have in other cases given seven or eight per cent. They must take a great many things into account; for example, the enjoyment of those improvements under the Act of 1870, and the way in which the tenant has dealt with his land, which is always a feature in determining the rent; has dealt with the stand, which is always and he ought not to profit hy bis own wrong. The Sub-Commissioners hearing cases have, I think, very fairly taken those things into account, as we have done on the hearing of appeals, and they give the net result of them, with their view of the value of the land, and if all these elements were put down in detail it might be quite possible that particular things might be very much quarrelled with and assailed, and yet the result be, in the main, a fair and just result.

3752. Chairman.] But, when the matter came before you for re-hearing, your confidential valuer, in whom you place reliance (according to the very interesting forms which we saw, and which seem to be prepared with the greatest possible care), goes into those matters, and expresses his opinion upon them, does he not?

Certainly, as to the amount of improvements. 3754. And 25th April 1882.]

Mr. Justice O'HAGAN. 3754. And also as to the deterioration of the land and the state in which the farm is? Certainly, he does go into those things, undoubtedly,

5755. Marquess of Salisbury. And he makes the deduction? No, he makes no deduction whatever: he does not fix a fair rent.

37.56. We had a rent, and the deduction from it, in reference to a house or some improvement that there was?

No: he excludes the buildings, but he makes no deduction from the land, except for the buildings.

2757. Chairman. I think that is so? That is so; I am perfectly familiar with it.

3758. Having gone through all these items, he states generally what he thinks the rent should he, does he not? Yes; he says, "my estimate of the rent of the holding, irrespective of the

buildings at the present time," is so and so. That is generally the form. 3750. Do not those words "irrespective of the buildings" mean that he does

not think that the buildings should be taken into account at all ? He does not take the buildings into account at all. If the landlord has erected the buildings, then we would put on an additional rent in respect of those buildings, but the valuer values irrespective of that.

3760. Marquess of Salisbury.] You have been speaking of the effect of the division or non-division upon rehearing; have you also considered its effect upon possible agreements between landlord and tenant out of Court; do you not think those agreements would be more frequent and more easy if the exact principles upon which the Commissioners proceeded were more generally known?

I do not think it would have any practical effect or at least very little. The isandlord and tenant generally agree about what ought to be the fair rent, and if the tenant has made any substantial improvements he will say, There they are, and they ought to be taken fairly into account; but I do not think that the decisions of the Sub-Commissioners, I mean to say their putting down improvements, and the amount deducted on account of the improvements, would facilitate the agreements so far as I can see. I do not know whether your Lordships are aware that we have lately provided for the case of agreements between landlords and tenants by offering them one of our valuers

to settle the rent between them. 761. One of your principal men? Yes, one of our court valuers; and masmuch as the opinion of our valuer does ultimately on appeal, not absolutely, but to a very great extent, determine the case, we think it very wise to offer the valuer in the first instance, as a landlord and tenant can agree if they choose, and may thus inexpensively fix the rent between them.

3762. Chairman. You mean oue of the valuers supplied to your own Commission, not the Sub-Commissioners? The Sub-Commissioners have no valuers.

3763. Marquess of Salisbury.] Will you kindly look at this document which was put in by Mr. Litton, and in which 362 I. is put down as the value of the farm, and 12 l is afterwards put down as the value of the buildings upon it; and as a matter of fact Mr. Litton stated in evidence that the value of the judicial rent fixed was 350 L, that is 362 L, minus the 12 L? Yes, this is one of the documents.

3764. In that form it appears there is no difficulty in making the distinctions?

They always distinguish the buildings from the rest of the property; this is quite right.

3765. Do the Sub-Commissioners do it? (0.1.) XXA

Continued

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Of course they must do so according to whether the huildings were erected by the laadlord or the tenant, but they estimate the value of the farm as it

stands, land and buildings and all, and if the buildings he the landlord's ouildings, of course they make the tenant psy rent for them. 2766. There is no record analogous to that of the distinction between the

farm valued with the buildings, and the value of the buildings by themselves, is there?

No, we have no record of that kind.

3767. And there is no record before the Sub-Commissioners?

3768. You do it in a far fuller form than they do in the Court below? We do it in a fuller form, that is to say, our valuers do it in a fuller form,

376q. If there is no injury to policy, and I presume there is none from such a return as that being made and published, what injury from a prudeotial point of view would there be if the Sub-Commissioners went into similar details in

their decisions?

In a return of that kind not the slightest; I never indicated that there would What I meant was that I thought it would be impolitic to state what deductions we make by reason of the tenant's improvements. That we thought it would be impolitic to state, but we never thought that a return of this kind was in the least impolitic. We give this to the public. In this he values the farm at 365 t. per annum. With respect to the improvements, he says that they have increased the letting value 10 to 12 shillings per Irish acre. There he gives his opinion as to the improvements made, and how much they had increased the letting value of the holding, but he does not say I deduct so much from what would be the value of the holding by reason of the improvements; he leaves that to us, and we do not necessarily deduct the whole of that; we deduct what we think a right annual sum to deduct by reason of the improvements.

3770. Chairman | You said just now that you did not think it possible any statement of ratio decidends by the Suh-Commissioners could facilitate settlements between landlords and tenants on their holdings, and that their silence as to their ratio decidendi would not prevent such settlements. Might not this occur. Take the case of two holdings near each other and circumstanced in very much the same way; the Sub-Commission fixes the fair rent of one of them and reduces that rent coosiderably, and the question is whether the landlord and tenant will agree between themselves as to the rent of the other, and the tenant says I expect that the rent of this holding shall be reduced in the same way, but it is a fact that the other one was very much deteriorated, and the Sub-Commissioners reduced the rent in consequence of the deterioration, but that does not appear; there is no evidence of that, and no mention of it in their judgment; the landlord says, I cannot consent to the rent of this other holding being reduced, because it was in consequence of the deterioration of the other holding that the rent has been fixed so low; the tenant and landlord therefore arc at variance there, and cannot come to an agreement, whereas if the Sub-Commission had only said that the reason for their judgment was the deterioration of the first holding, the landlord and tenant might settle the rent of the other holding; is not that a possible case?

Perfectly possible, but I doubt very much whether it has occurred to practice; I rather think the broad grounds of the Suh-Commissioners' decisions generally are very well known in the neighbourhood, and that the tenant would say the case of that farm does not govern mine, because that tenant wore out his farm or treated it ill.

3771. But how are the grounds to be known if they do not state them? The thing is proved in evidence before the Sub-Commission.

3772. But the deterioration would not be seen, perhaps, and would not be known or be the subject of evidence? It would be the subject of evidence of course,

25th April 1882.] Mr. Justice O'Hagan.

3773. Perhaps they judge from their neular inspection of the deterioration? They may do so.

3774. I suppose your survey ar if he abserved deterioration in the farm would mention it in the report \dot{t}

He always states it to us.

3775. Earl Stanhope.] Ynu say the Sub-Commissioners bare un valuers; do you not think it would facilitate the progress uf fixing fair rents if the Sub-

Commissioners had valuers, and that there would be lewer apocals:
The Sub-Commissioners may employ a valuer if they wish, at the expease of
the parties, but the two lay sub-Commissioners have been selected for their
themselvers. They have the evidence and they hear the valuer of its laudied
and at the treast. It may be a question whether the legal man alon, assisted
by a where, while not be a change of system that might be adopted. I do not
speak of that, but I do not this change proceedings if, having two provides
protectingly selected from their acquisitance with land, you added to them a

raluer on whose report they were to act.

3776. I mean in this way, instead of occupying several days in walking over
the land they would be in Court giving their decisions on the value aiready taken

by valuers employed by them?

The Act of Parliament might certainly be changed so that you might have the lay Sub-Commissioners acting as valuers while the legal Commissioner was hearing evidence in Court, but out the whole we doubt very much whether

that would be a wise change.

3777. Chairman. That would be cutting up the tribunal into two sections,

and proceeding upon different evidence?

That would be, as your Lordship says, cutting up the tribunals into two sections and proceeding upon different evidence. It plainly could not be done under the present Act of Parliament, because they are all judges, and all of

them must hear the evidence and decide upon it.

3778. Lord Brabourse.] There might be a question arise in Court where the
spinion of the gentlemen selected for their knowledge of land might he more

valuable than that of the legal goutlemen?

Certainly.

3770. And their absence then would be a public detriment?

3779. And their absence then would be a public detriment

3780. Chairman.] I do not know whether it has some exactly under your cognisance what the expense hefure the Sub-Commissioners to both parties, the handlord on the one side and the tenant an the other, of the learning of and of those cases may be taken to be?
Na, not practically. I could very easily ascertain in some few instances and

furnish it to your Lordships.

3781. We have been trild that, as a general rule now, each party is left to pay

his own counts; is that so ?

Nor; it way in with thit we clear that it is one instances some of the Xer; it way in with thit we clear the rest imposed occus speech lessloted. When we saw that we communicated with them and end; in our opinion, that was no right; that the was not be to considered as it were a hisgestim for the determination of enthillated rights, in the more or less of a matter of spilate, and that they could not in the third and the three countries of the considered as it would not then the Sab-Commissioners have about investigations to first rister part with coars we thought, and accordingly since that time the Sab-Commissioners have about investigation of the contribution of the countries of the contribution of the contribution of the countries of th

[Continued.

should not be prevented in the commencement of an entirely new system, from having the advantage, if they chose, of trying their cases also before the Court of Appeal We thought it wise therefore to lay down, as a general principle, that we would not, even on appeal, fix either party with costs during this judicial year, but we have announced that at the commencement of the next judicial year we will follow the usual rule of the Courts, and make the costs of the appeal follow the result.

1782. I suppose it follows from that that there is no judicial record from taxation of costs, of what the expense of both parties is of one of those

No, there is scarcely any judicial record. We have fixed a very moderate scale of costs which are all that can be recovered between party and party, and, in the absence of agreement, between solicitor and client.

3873. Marquess of Salisbury.] May I ask with reference to the expense of those cases, whether you give any facilities for grouping together for hearing at

the same time, the cases that arise on the same estate? Undoubtedly; we hear them all together. Suppose there are ten tenants of one landlord, we hear the cases of all the tenants before the landlord gues into

his evidence at all. 2784. Do you alter the position of the cases on the list for the purpose of 'acilitating that operation; for instance, suppose you have a case in which the landlord appears at No. 1 on the list and at No. 50, will you put them together?

Certainly, we will do anything of that kind. 3785. Earl Stanhope. Would you give precedence to the worst cases, that

is to say, would you put at the hottom of the list cases of less importance than others, such as cases where the tenants had paid without dispute the same rents for 20 years?

We do not desire, without strong reason, to depart from the general rule that the cases that come into Court first shall be heard first, and we require a very strong case to make us depart from that.

3786. Chairman.] In the evidence which you gave before Mr. Shaw Lefevre's Committee you went very fully into the explanation of your views with regard to the creation of proprietors of holdings in Ireland, did you not? Yes, I remember I did give some evidence; I do not think I have seen it

since then. 3787. However, I suppose I am right in collecting from that evidence that you are very favourable to the extension of what is called, perhaps not very accurately, a system of peasant proprietors in Ireland?

2788. Do you still continue to hold that view? Í do.

3780. Is it your opinion that the clauses in the Act of 1881, which were intended to accomplish that object, have been successful or otherwise?

They have not been as yet successful, certainly, but the time has been very short. We have been only six months, out of a seven years' experiment, at work, and the minds of the people have been occupied completely with the fair ren: question. While the stream is running in that direction, I think it is not natural to expect that there should be much of a current in the other direction also. The minds of the people, I have no doubt, will get filled with the idea of becoming proprietors, but as yet they have not been. Besides, there are very many amendments, in detail, that might be made in the Act.

3790. To what do you attribute the circumstance that the clauses have not

been acted upon? That people have not got them into their minds sufficiently; the idea of the people is that of fixing a fair rent, and I do not think that they have yet at all 25th April 1882.7 Mr. Justice O'HAGAN. [Continued. sufficiently; besides, there is this ohvious reason, namely, that so far as regards

those tenants who desire to have a fair rent fixed, they would not come in to purchase until they knew upon what rental they were to purchase,

3791. And when they have their rental fixed, what would be their inducement to purchase?

To become proprietors out and out. If they can do that by adding a little to their present rent, and leave their family, fifty years hence absolute owners of the farm, I think that they will do so.

3792. But as the Clauses now stand, would it be the case that even in fixing a judicial rest, they could become proprietors by adding what would be called a small payment to their rent?

Not, I think, under the present Act, which would require them to pay five per cent, upon the purchase money for a period of 35 years, but it would be otherwise if those Clauses were altered so as to extend the time for payment over a longer period, and enable them to horrow the money at a cheaper rate. I am not myself very much master of the details of the figures, but it has been stated, and I believe truly, that with a very slight addition to the tenant's rent, it might be managed if the repayments were spread over say, 50 years.

3793. As the Clauses now stand the tenant, whether he had his judicial rent fixed or not, must commence by providing himself one-fourth of the purchase

money? He must unless the landlord consents to leave that one-fourth out merely puisne to the State mortgage advance.

37u4. He may borrow it from a banker, or from any one else? Precisely.

705. He must provide the one-fourth in some way, must be not?

Yes. 3796. And upon the remainder he must pay five per cent.?

3797. I suppose it is the case without much calculation, that if he purchased at the price for which land has been accustomed to sell to Ireland, that would result in an annual payment by the tenant which would be considerably above his rent?

It would 2708. Do you think that it is likely the tenants would avail themselves of the Clauses enabling them to purchase, when they would have to make that payment down or provide that money, and also be at a yearly charge greater than their rent?

I think not at present; I think in the present circumstances of the Irish tenants it would be too great a burden.

3799. Will you let me ask you whether you have found practical difficulty in the small number of cases which have come under the Act in regard to property, subject to a head-rent?

Yes, that undoubtedly is a practical difficulty.

3800. Are you aware what quantity of land in Ireland is subject to headrents or quit-rents; I do not know whether there is anything known more than an estimate, or more than a guess? Mr. Murrough O'Brien mentioned to me the estimate he made, but I declare I have not the figures in my head; very likely he gave it to your Lordships

3801. I think be estimated that it would be a third of the land in Ireland? Yes, it was something of that kind; but I know nothing more than he

told me. (0.1.)XXX 3802. Do 25th April 1882.] Mr. Justice O'HAGAN. [Continued]

1802. Do you know what is the entire reutal of Ireland which would come under the operation of the Land Act of 1881? Does your Lordship mean how many of the tenants in Ireland are present

tenants within the meaning of that Act. 3803. No. 1 do not suppose it can he known accurately, but hy estimate what would be the money rental of Ireland that would be affected by the Act

of 1881, supposing every tenant entitled to come in came in? I quite think it would be three-fourths of the rental of Ireland. Excluding town property it possibly might not be so much, perhaps only two-thirds, but I should think it would be at least two-thirds of the rental of Ireland.

3804. Two-thirds would be affected by the Act, you think?

I think so.

3805. What is the whole rental?

I really do not know, except in a general way.

3806. Marquis of Salisbury.] When yon say two-thirds, do you include land in lease, or on which side do you put the land in lease? Outside the Act.

3807. Chairman.] I believe the rental is said to be somewhere about 17.000,000 l., or nearer 18,000,000 l.?

I do not wish to give it to your Lordship, lest I should he in error. 3808. Excluding town property, the town parks, and lund on lease, and demesne lands, and so on, you suppose about two-thirds would he the

quantity? Yes, but I cannot speak with any approach to certainty.

3800. You have not gone into that?

No, I do not speak to that, but there are many people who could give you a very good idea of it.

3810. Has it occurred to you that there is any way in which the question of head rents could he dealt with, so as to prevent them being an obstacle to the purchase of holdings by tenants ?

They might be bought up at a fair price possibly.

3811. Supposing the owner of the head rent did not wish to sell?

A proposal was stated to me to give power to apportion the head rent, if the land were sold amongst the tenants; but my legal mind rather shrinks from that as interfering with an extant right.

3812. Is not the course taken under the Lands Clauses Consolidation Act, where land is taken for any purpose under it, that there is a compulsory

apportionment, Undoubtedly there is a compulsory apportionment, but then the land is expropriated out and out for purposes of the State.

3813. Is that so: I thought the rent was apportioned? A railway takes a portion of land subject to rent, and then the rent is ap-

portioned as regards the remaining land, but the rent is not, I think, divided between two portions of land.

3814. Is not the part which the railway company takes made to hear a portion of the rent? I think not as a general rule; the railway company buys the land out and out in fee, and pays the entire purchase money of every estate and interest

in it, and then the rent is apportioned upon the remainder of the land. 3815. Probably that would be the more convenient way for the railway to take, namely, to buy the landlord out?

I think

I think that is done; it is so in every case that I remember; I do not know

if there be a provision for apportioning the rent between the railway and the lessee in the Lands Clauses Act, if there is I do not remember it.

3816. Do you think there would be much probability of the vendor or the

landlord selling at one price, and, perhaps, redeeming the head reat at a higher price, and that being a transaction which he would like to engage in? It is quite possible, of course-

3817. Has any case come hefore your Commission in which the head rent has been dealt with in any way, either hy perchase or otherwise?

Mr. O'Brien would be able to tell you that more accurately than I can, but I think not; I um not aware of any sach case.

time not; I am not aware of any sourcests. 3818. It has been stated also to us that there is an impediment in the way of buying and selling in the case of tenants for life?

buying and selling in the case of tenants for life?

There is an obvious impediment.

3819. What is the difficulty that occurs to you about that?

I think I remember mentioning it before Mr. Shaw Lefevr's Committee; the difficulty is the tenant for life selling and then receiving for the investment of his money a smaller income than he was receiving from the land.

3820. Do you know that in practice, since this Act of 1881, was passed, that has deterred tenants for life, who might otherwise have sold, from selling?

I am not aware of that in practice, but I have no doubt it is so,

8811, is it quite clear that there would be a serious host so a tenuant for His? Your Logdship is swared the Lossons of juvestions withhis are open to rustices under Lord Conworth's Act, namely, real securities and Bank of Regland and 11 suppose 83 per cent, would be the largest amount that could be expected from any investment in those funds.

life sells, he is limited in a porticular way as to the re-investment of the money, that it must be point into the Court of Chancery, that it must be invested in the Government Puncia, which would pay 3 per cens, and further, to use the language of the Act, that the tennat is to be called under the Lands Classes Consoledation Act." the promoter of the undertaking," and it was suggested in to the control of t

3823. I suppose we may take it that, without more, would effectually stop any such operation? It would be a very serious thing indeed undoubtedly, but the investment of

It would be a very serious thing indeed undoubtedly, but the investment of the funds need not take place where there are trustees, and where the purchase money could be paid as in case of an ordinary sale.

3824. However, the costs of the Court of Chancery would probably he found a very serious difficulty? Yes.
3825. Marquess of Salisbury.] It has been suggested to us here that it might

be possible to divide the interest of the tenant for life from the interest of the remainder man in such a way as to allow the tenant for life more liberty in reinvesting his share when apportioned to him than he possesses under Lord Crauworth's Act to which you have just alluded? That is true if he can use the capital which comes to him; that is to say, his

share of the purchase money in trade or in any profitable way he thinks profitable; but if he invests his share, what can he get but a smaller iscome, because the capital invested would be merely his proportion of the price.

(0.1:) YY3

3820. The assumption was, that it was possible so to divide the money that

he should, as it were, buy the remainder man out?
Yes, I understand that proposal perfectly; he gets in his pocket the value of

Yes, I understand that proposal perfectly; he gets in his pocket the value of this life interest, and that could be done by the Government, as it were, insuring the various lives by setting off the bad against the good, and so on, and paying the semant the capitalised value of his life income; but to the majority of men I

apprehend that might not be a great boon.

3827. He might get something higher than 34 per cent, might be not?
Yes; but, as your Lordsbip sees, if he invests it on the highest paying security he could possibly get, it still would be merely interest on a portion of

tes; but, as your Lordsoip sees, it he inverts it on me nignest paying security he could jossibly get, it still would be merely interest on a portion of that capital of which he formerly had the interest of the whole.

3828. Chairman.] I think the witness who suggested the operation suggested

(in fact, it was necessary for his case that he should do so) that the tenant having got the money could invest it in Manitoha; otherwise it would be but the same thing, idem pro idem, would it not?

Yes. If he could invest the entire amount of the capital in what would pro-

duce a much larger income, then the tenant for life would be clearly benefited, but not by investing merely his own share of it.

3829. Lord Brubowrne.] What would become of the remainder man if you did that?

The remainder man's money would be kept safe for him.

3830. Chairman.] Supposing any arrangement could be made by which a tenant who had not a judicial rank riced, or a tenant who had not, could become the purchaser without having his annual payment increased, or still more, if he had his annual payment somewhat decreased; is it your opinion that that would be a temptation to him to become the owner, and that he would be anxious to less so?

I think it would be a temptation to him. Of course, there lies a political question behind that.

383. I do not go into the question politically, whether it would be a good thing, but I should like to bave your opinion, from your knowledge of Ireland, as to whether you think it would be a temptation to him?

I think it would be a temptation to him.

358

3823. Without going at large fints the political consideration, there is one question I may ake you; have you considered, suppose the State vere anxious to create peasant proprietors, whether it would be desirable to go down to the lowest form of hedding, or to stop at any particular point, say the holder of a particular number of serve, or the holder of any particular fragment of land, however small?

I should doubt the advisability of making a very small and very poor tenant a properteet, but your Lordsligh will see that I have some difficulty in giving opinions upon these speculative points, and for this reason, that I am is a somewhat responsible position, and may be saked to give my opinion when I should very maturely have considered the subject, and an opinion given here before your Lordslips might be field to feter and brind me.

3833. That I quite feel, and if put to you in that way I should not like to press it?

That is the sole ground of my hesitabien. I understand if an opinion be given belore a Committee of your Lordships it is aftervards published, and that is taken to be, as it were, the determined and settled opinion of the witness, and opinion of that kind upon a matter that you may hereafter have to consider in a position of that kind upon a matter that you may hereafter have to consider in a position of responsibility.

3834. Marquess of Salisbury.] Mr. Litton did give to us an opinion that any considerable increase in the number of small freeholders in Ireland would have a political tendency directed to separation between the two countries: of course, if you desire to maintain silence on that point I could not press you

over 4 aril 1882.7 Mr. Justice O'HAGAN.

upon it, but as he has given an opinion I should like to know whether you think it right to give an opinion too I think it has been generally considered that the effect of hestowing property

SELECT COMMITTEE ON LAND LAW (IRELAND).

mon men is to make them conservative, and I should be disposed, in the first instance, to say that it would have the same effect in Ireland. es es. That would be the leaning of your mind, would it?

It would.

9826. You think the desire of maintaining tranquillity, and keeping the property which they would have obtained, would outweigh any speculative proclivities which they might be disposed to entertain : I think so.

28x7. Lord Turose, 1 You gave very strong evidence upon that point, I think, before Mr. Shaw Lefevre's Committee, did you not? Yes, I think I did, and I suppose I entertain the same opinion still that I

did at that time, but I gave my opinions then without any sense of responsibility ; I was a private individual at that time.

2828. Marquess of Salisbury. Allow me to ask you, have you been able to estimate, from the business already provided, how much of your time the pur-

close operations are likely to occupy? I think we have leardly materials upon which to answer that question, because the operation of the purchase clauses really lies much more in expectation than in reality : we do not think we ought to judge from the present what may be done hereafter; while the minds of the peasantry are set in a particular direction, as they are now, to the fixing of fair rents, you will not get them to turn their attention to the purchase clauses; I look forward to the purchase clauses operating much more in the future than they do at present.

Therefore I do not think we can estimate how much of our time will be taken up with the purchase clauses, but I think a very considerable time will be so occupied, and our solicitor and Mr. Murrough O'Brien, who is at the head of the department, appear to me to be tolerably busy as it is. 3839. There would be considerable weight thrown upon you in deciding questions of discretion in the administration of such clauses, would there not?

A great deal, and a very great responsibility; as there is no appeal with regard to those clauses, we will have to decide all those questions for ourselves.

[840. Chairman.] How much of your time, generally speaking, has been taken up by the appeals; I suppose the appeals have been very pressing?

Yes, the appeals have been very pressing; we sat in Bellast first to hear appeals; we sat there, I think, for a fortnight, and then having reserved the case of Adams v. Dunseath for the Court of Appeal, we thought it right to reserve the hearing of further appeals until that had been decided; but we found in practice that the decision of Adams v. Dunseath had a far less effect then we could have conceived. Still we thought it would have an effect, and we thought it right to suspend the further hearing of appeals until it was decided. We then went to Limerick, and sat bearing appeals there, and in the interim, between Belfast and Limerick, we heard a good many appeals in Duhlin.

3841. Lord Brabourne.] Do you mean that it did not have the effect of preventing as many appeals as you expected?

No. it had less effect in fixing the amount of the judicial rent. I remember Mr. Vernon and myself speaking upon the entire effect of it on the Limerick

(0.1.)

sppeals, and I think we came to the conclusion that the decision in Adams v. Dunseath, as regards the 4th Clause, did not make a difference of 10 l. per annum in the aggregate, spread over about 1,100 L judicial rents there-3842. Chairmon.] Then a considerable portion of your time has also been

taken up in hearing the cases about leases ? A great deal of our time.

3843. Marquess YYA

Continued.

3843. Marquess of Salisbury.] And that clause of the Act has not had much practical effect, has it?

It has had very little practical effect. I do not think the people were aware of what the requisites were in order to bring them within the Act. Three conditions must have been fulfilled; they must have been tenants from year to year; the execution of the lease by the tenont must have been procured by threat of eviction or undue influence, and the lease itself must contain terms that are unreasonable or unfair to the tenant, having regard to the Act of 1870. Now the fulfilling of those three conditions has been so difficult that in the great majority of cases we have had to dismiss the tenant's case. It has happened in a great many cases that the tenant held under a previous lease, and on the expiration of his lease he may have been compelled to take a new lease by the landlord at a certain increased rent, and although this was done under threat of eviction, the tenant not having been a tenant from year to year at the time, did not come within the Act. And again there have been a great many cases where the landlord was comparatively indifferent whether there was a lease or not, so that he could get the increase of rent, and the tenant desired to get the lease as a protection against further increase, so that although the landlord may have compelled him to pay the increased rent, ite did not compel him to execute the lease. That is a case we have had also to dismiss, and then there has been a further question as to what were terms unreasonable or unfair, having regard to the Act of 1870. We have gone the length in one case under appeal (which was heard yesterday, I think, before the Court of Appeal) of holding that where there was nothing in the clauses of the lease that militated against the Act of 1870; but the rent was so bigh as to cat up the improvements effected by the tenant, that made the lease a lease containing unfair terms within the Act of 1870.

3844. Chairman.] That is a matter which mny come before the Court of Appeal?

It is before the Court of Appeal now.

3845. There are some other sections of the Act which also come under your consideration; that as to emigration is one, I suppose? Yes.

3846. You have not had much trouble about that? No; none.

 $3\,847.$ Does the reclamation of land come under your consideration? No; that is a question for the Board of Works.

38.8. Lord Tyrone.] Are you aware whether any action has been taken under that clause by the Board of Works? Really, I could not answer that.

Really, I could not answer that.

3849. Chairman.] Is the section as to arrears of rent under your jurisdiction?

Yes; there has been very little done in that way.

3850. The time is expired for applications under that section, I suppose? Yes, quite so; it expired on the 28th February.

3851. Have the cases where applications were made been disposed of? Yes, we have sanctioned advances to the amount of about $30,000\,L$, not more.

3852. To the landlords? Yes.

3853. With regard to the purchase clauses, what course have you taken where there was any arrear of rent due from tenant to landlord on the occasion of the purchase; has there been my case of the kind?

Such cases may have enteen, but have not come before me.

3854. Has

Mr. Justice O'HAGAN. 25th April 1882.] Continued.

3854. Has it occurred to you what course ought to he taken, supposing these purchase clauses were more largely resorted to; it would be expected, I suppose, that there would be eases where arrears of rent are due from tenant to landlord ? Yes: I think those should be provided for, or their payment made a con-

dition of carrying out the arrangement. 3855. Do you mean that the tenant should not be allowed to purchase with-

out paying them? Yes; he should not he allowed to enter upon his purchase in deep arrear of rent.

3856. Might not that deter a number of tenants where they would be glad to become purchasers if some arrangement were made? As it is voluntary between landford and tenant an arrangement might be made in any case of that kind.

3847. I want to ask you about the title on those occasions of purchase and sale between landlord and tenant; what would the natural expense be, supposing the tenant became the purchaser of a small holding not getting an advance from the Government, the Government advancing to the landlord we will say, and taking a charge on the holding; have you any idea what the cost would be

that the tenant would have to pay? The tenant pays no costs. The costs are hulked and made part and parcel of the purchase money, under the express terms of the Act.

3858. That is, if the Court huys an estate but resells to the tenant?

Yes; quite so. 3850. Is there also a separate transaction between landlord and tenant in the

ease of a short holding? I think it is arranged in the same way; that the tenant pays a hulk sum, including costs.

860. Is that so?

I think it is so; as well as I recollect we arranged it so. We have fixed a scale of costs under our rules.

3861. But in the case I put it would be by agreement between the landlord and tenant : it would not come before you at all? Your Lordship means out of Court altogether, where it is simply an advance.

3862. The tenant has a particular holding we will say, of 30 l. or 40 l. a year, and he and his landlord agree, the landlord to sell and the tenant to buy the

holding, the landlord expects to get, according to the present rule, three-quarters of the purchase money advanced by the Government, the tenant provides the other quarter; the landlord has to convey to the tenant, and on the other hand the tenant has to give a charge to the Government for the three-quarters; have you any idea what the cost of a transaction of that kind would be altogether? No, I cannot tell your Lordship, but I will ascertain at once through our solicitor.

3863. It would involve, I suppose, among other things, the stamp duty, both

upon the conveyance and on the mortgage

Yes; we had some question with regard to that double stamp duty. It involves the stamp duty upon the conveyance and the mortgage undoubtedly, hut then I helieve there was some arrangement attempted with the stamp office hy which they would only require a single stamp duty in a case of that

3864. Is that so? i think so.

kind.

3865. Do (0.1.)

should be completed.

Certainly, or the registry office.

25th April 1882.] Mr. Justice O'HAGAN. [Continued.

3865. Do you say that they have made that arrangement? I think some arrangement of that kind was endeavoured to be effected by us, but has not been actually made.

3866. But no cases have come before you which would enable you to tell what oost the tenant would be put to in investigating the title and so on? No, that is a matter that would rather come before our solicitor and Mr. O'Brien. I do not think it has come before me judicially.

8857. Is it possible to extend the record of title system to titles of this kind; I do not think the record of title system was lower at all with respect to these purchases, but I have a strong opinion upon the propriety of establishing very soon a system of local registry, by which the encoundrance affecting these small holdings can be ascertained rapidly, and to bave a cheap and aimple these mall holdings can be ascertained rapidly, and to bave a cheap and aimple the nurhance data. This I than it as newtestall connectures or ecrollary of

3868. That is what I was going to ask you. Do you think there is much chance of the stream of small proprietors succeeding, unless there is some arrangement made by which the title can be transferred locally and at a small

expense ?

I am perfectly clear that it is essential to do so, and I have for a long time.

I am perfectly clear that it is essential to do so, and I have for a long time.

I am perfectly clear that it is a second to the second perfect to the second perfect to the second perfect to the second perfect to second head fad every possible encountbrance and ordering with the firm extreet there. I have an idea of my own with respect to these convergence; I do not know how for it can be seen to be second perfect to the second perfect that the sec

3869. Viscount Hutchinson.] In what hook do you mean? The registrar's book.

3870. It has been suggested to us already that there should he some record of that sort kept in your office?

I do not know why that should be. I do not know why, when once you

I do not know why that should be. I do not know why, when once you have this system established, the Commissioners should be the means for the persons to keep the record.

3871. Chairman.] Although your scheme would not contemplate the title heing kept in Dublin or transferred in Dublin, would it not be more natural to require that the record of title office should be so extended as to be the head of those local registries, or the directors of them?

3872. Is the record of title office in connection with the registry office?

No, it is quite different. It is in the Four Courts, and under the direction of the Land Judges. The record of title has not worked successfully in

of the Land Judges. The record of title has not worked successfully in Ireland. 3873. Either the Office of Registry in Duhlin, or some similar office, you think, ought to be the head?

It might be the Registry Office in Dublin. Record of title is theoretically the most complete idea, but I think it has been generally ahandoned as impracticable; and the minds of practical men have reverted to the system of the registry of instruments.

3874. Duke of Marlborough.] Is the number of applications for the fixing of a fair rent increasing?
No, they are not increasing; the stream is rather diminishing

3875. What

25th April 1882.] Mr. Justice O'Hagan. [Continued

3875. What does the entire number of applications to fix a fair rent amount to at the present time?
About 80,000, or something over 80,000.

3876. And you think the stream is diminishing? Yes, I think so.

3877. Chairman, | What is the weekly rate now?

I do not think I can answer you as to the present weekly rate.

3878. Marquess of Salisbury.] And how many of those have been disposed of? Between cases decided and cases stayed, or withdrawn, and agreements out of court, over 10,000 have been disposed of.

3879. Viscount Hutchinson.] You mean 10,000 out of the 80,000?

3850. Duke of Marlborough.] To what do you attribute the circumstances you have just mentioned that the stream is diminishing?

I think there was a very rapid stream at first; there was a great rush into the court, and then in the natural course of things it became somewhat less. 3881. Do you think it will eventually close altogether, and that there will

3881. Do you think it will eventually close altogether, and that there will arrive a time when the applications will come in in a steady stream, and go on for some time longer?

I think there will be a steady stream for some time longer.

3882. For a long time? For a long time.

3883. Looking at the number you have already had in your court and the number already settled, and the various arrangements you have made with formed my idea in your mind as to what may be the probable direction of time which it would take you to finish off times 80,000 that you have already got in your court?

We hope to have the greater number disposed of in another twelve months; certainly by the end of the year 1883 we hope to have the whole arrear cleared off.

3884. Then can you form any idea what may he the proportions of this steady stream which you consider will be still going on? I could not answer as to the future.

3885. Have you any idea as to how many there will be in the year? In the year there might be some 5,000 or 6,000 possibly, when we get beyond this block.

this block.

3886. And how many Sub-Commissions do you conceive would be necessary
in order to discose of that number?

Less than half our present number of Sub-Commissions, I think, would do it. 3887. Then you consider that by the end of 1883 the arrears will be cleared

off, and you will then have got into the steady stream in which you will be able to keep up the business with half the number of Suh-Commissions? I am of that opinion.

3888. Marquess of Salisbury.] If you have only disposed of 10,000 out of 80,000 in six months, will it not be a very great acceleration of the rate at which

they are dealt with if you finish the 80,000 in eighteen months more?

I think not, seeing that we have done 10,000 in about as montain. We commenced with a very small staff indeed, and it has been greatly incrossed, and now we have for the first time the largest staff wo have had, namely, sixteen Sub-Commissions; and then we undoubtedly expect a great many cases will

be settled by agreement.

3889. Chairman.] But may the circumstance that the stream has diminished now not be owing to this, that the tenants in Ireland see that there is a complete (0.1.)

Z Z 2 block

25th April 1882.] Mr. Justice O'HAGAN. [Continued.

block in the Court, that there are 80.000 cases pending, and that they say there is not the least use in our going to the expense of giving a notice or putting ourselves in motion, we will wait until the block is worked off a little, and see what has bren done, and then we will come forward?

I rather attribute it to the great rush there was at first into the Court to take solvantage of the Act, and that has become gradually smaller without there heliug any disinclination to take advantage of the Act.

3890. Duke of Mariborough.] But suppose the rents which are capable of being reduced, and other conditions of that character to exist outside of that

80,000, such as exist within that 80,000, would there not be the same motive among others who have not yet applied?

Yes; but those who felt the pressure the most came in at once. They came in with a great rush; and very likely others may take their time, and not be in so great a burry. I am sure no person acticipated at the beginning that there

so great a hurry. I am sure no person acticipated at the heginning that there would be such a crowding of the Court. They thought the thing would be rather a tolerably steady stream from the first.

3801. The proportion of rental which has been reduced averages about 25

3891. The proportion of rental which has been reduced averages about 2 per cent., does it not?

Yes, something like that, so far as I can see.

364

3892. Lord Brabourns.] The large number of tenants who intend to pay no rent, I suppose, have not come into Court to seek for diminution?

There are a considerable number of that class who have not come in. 3893. May you uot hope that as the country becomes more tranquillised

Sogg. May you dot nope that as the country necones more tranquinised these men will come in. They will come in, undoubtedly. As to the question of our being enabled eventually to grapple and deal with the number of cases coming naturally and

normally into Court, I have not the slightest doubt we shall be able to do so so soon as this arrear is cleared off. Not one of the three of us has ever felt any despondency as to heing able to grapple with the work.

389.4. Duke of Mariborough.] Do you think the reason why others have not yet come in, and that the same rush is not going on, is that they do not feel the same pressure of rental upon them?

I think, to some extent, that must be so; but that, of course, is more or less conjecture.

3895. Lord Tyrone.] Was not one of the causes making the rush into the Court the extending of the "first occasion" in the first instance?

Certainly. The 60th postion revisided that the rest instance?

Certainly. The 50th section provided that a tenant making application upon the first sitting of the Court would have the advantage that the order, when made, should relate back to the time of making the application; and undoubtedly that caused an immense rush into the Court. There would not have been so great a rush but for that.

38g6. You extended that several times, did you not? We extended that "first occasioo" once.

3897. Duke of Marlborough.] Is it not one of the conditions with regard to the purchase clauses that the tenant, during the time that he is repaying the utwarper made to him is not to subtle or sub divide his hability?

advance made to him, is not to sublet or sub-divide his holding?
It is, under the Act of Parliament.

3898. Supposing the idea was carried out which, I think, fell from you during the course of the examination, that the time, in order to ease the tenant in his purchase, should he extended for 50 years, would it not be a very serious.

objection to the tenant to have his farm put to such a condition that for 50 years he could mether auther or sub-divide it?

It might he so; hut upon all those points I would sak your Lordship not to take my opinion as final, because my views are given with a feeling that I may have to give much more detailed and serious consideration to every one of those questions than I have given, or have been able to give, a present.

3899. Marquess

25th April 1882.] Mr. Justice O'Hagan. [Continued.

3899. Marquess of Salisbury.] How many cases have you under appeal at present? The number of appeals lodged were 1,428.

3000. At what date?

Up to the 15th of April.

1901. And of those how many have you disposed of?

We have disposed of 195, which, with 52 withdrawn, makes a total of 247 disposed of. This Return also states, if your Lordships desire to have the

figures exactly, the number of applications to have a fair rent fixed, and how they were disposed of, up to the 15th of April; hut I think the Return is going to be made formally to Perliament.

3902. Lord Tyrone.] With regard to your former evidence, which I have

read over, I find that you mention there that you thought the Encumbered Estates Court was not a good medium of purchase, as it was a Court of Justice? Yes.

3903. That was under the Act of 1870?

Yes; that was for acting as a commission. I think the proposal was that it should not as a commission, and I thought there would be somewhat of an incompatibility in their assuming those functions.

3904. You stated, I think, that that was owing to the fact of its being primarily a court of justice?

Yes; it was a court for the purpose of selling land, and clearing off encumbrances, and deciding as to encumbrances, and then making a Parliamentary title, and I was of opinion that if a commission were established for the purpose of purchasing and selling lands it should be a commission independently of that.

3005. And not a commission coupled with a court of justice? I suppose there may be some little inconsistency at present, inasmuch as we combine both functions, but such was my view with regard to the Landed

Estates Court.

3906. I was going to ask you whether you do not occupy slmost exactly the

3900. I was going to say you will enter you do not occupy sincest exactly tas same position now as that which you define there as being against the working of the Purchase Clauses?

I do not think it is so much so. We are not merely a court for sale, we are

a court established for dealing with the relations between landlord and tenant; we are to a great extent a landlord and tenant court. There is not the same sort of putting us outside of our normal work as I thought there would be in this.

3007. Your answer in that case is to the effect that "it is primarily and

essentially a court of justice, to which we look for the discharge of its primary functions especially, and I should have imagined that you were in very much the same position as that?

I do not know that our primary functions are so much those of a court of

I do not know that our primary functions are so much those of a contr of justice. I think we are very much balanced; we are a court of justice undoubtedly to settle fair rents, but we are also a commission for the purposes of purchase.

3908. With regard to the establishment of a peasant proprietary at that time, you stated that you thought the State should further the scheme as a good scheme in itself?

Yes, I did.

3009. I suppose it would not be too much to ask you whether that is your opinion now?
It is: I have no hesitation in saving so.

39 to. You were also in favour of another form of purchase, which was the establishment of percentities?

Yes.

(0.1.) z z 3 3911. Have

Mr. Justice O'HAGAN.

25th April 1882.] Continued.

3911. Have you changed your opinion about that? Not as to its desirability; but as to its being likely to occur much in practice, I have a good deal changed my opinion. I do not think it is very likely to occur much in practice now. The difference between having an estate in fee farm at a fixed rent, and that of having a fair rent fixed, is not so great I think. as to induce the tenant to make a sacrifice to become simply a fixed tenant. The Act itself provides for fixed tenancies, but I think there has not been more than a single instance in which there was an application (I believe there was one and one only) to have what is termed by the Act 1881 a letting at a fixed reat, which means really letting in fee farm.

3012. At that time you seemed to have believed that the tenants would take

advantage of that freely, if offered?

I thought so; and I still think that if that bad been enacted in 1870, in the prosperous times, the tenants would have taken advantage of it to a very large extent; but I doubt very much, both on account of the change of the times, and on account of the new legislation, whether they would take advantage of it now to the extent I thought they would. I have no doubt they would bave

taken advantage of it greatly if it had been open to them between 1870 and 1880. 3013. Then I may infer that the great thing which will prevent them taking advantage of it is that they have such benefits under the Act of 1881 as are now given?

That is one of the reasons.

866

3014. At that time you stated that tenants would willingly have paid the old rent in perpetuity, and a fine of five years in addition, did you not?

I was of that opinion, and I think over a good deal of Ireland that may have been so; but there is no use in saving further than that there was a very great deal of raising of rents between 1870 and 1880. I do not wish to speak further than I have seen in the hearing of the cases upon appeal, but certainly in the cases which have come before us upon appeal I do not think the tenant would have paid the rent he was then paying and a fine besides to obtain a perpetuity. I do not think he would have been able to do so.

3915. You were then of opinion, I see, that they could have paid five years more than the present rent?

Yes.

3016. But either that opinion must have been wrong, or else it would be correct still as regards rents that had not been raised?

When I gave that opinion I gave it in reference to my then view of the great desire on the part of the tenants to have a perpetuity and fixity, and I did not believe that the actual existing reats were so much a matter of complaint. I have seen now that the existing rents have hern, to a very large extent, a subject of complaint. That may be, of course, due and owing in some degree to the change of times, but it has been also due in a great degree to the rents being too high; and, of course, where the rents were too high the tenants could not pay. I candidly own I did not, until I hegan to administer this Act, think that so many cases of high rent would come before ns.

3917. Cases in which rents have not been raised for a length of time, do you refer to?

Yes, and cases where they have been raised. There have been very many cases that we have had of the kind; but upon that point I do not wish to speak, lest I should generalise, which I do not desire to do, but to keep my mind perfectly free for the future, and to speak only of things in the past.

3918. At that time also you were of opinion that small proprietors might be established without inflicting loss or injury upon any one?
Yes, and so it would be undoubtedly. If the rent he a fair rent, then, by advancing to the tenant according to the scheme of the present Act, or to any

proposed scheme, no loss is inflicted. 3919. This Act, up to the present time, as far as regards the purchase clauses, has been more or less, I understood you to say, a failure altogether?

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Yes, the purchase clauses have not been taken advantage of, and I have stated the reasons which in my opinion have led to that result, namely, that the minds of the tenants are occupied with the question of fixing a fair rent, and that

they have not turned their minds to the question of purchase. 3920. At that time you gave evidence to the effect that you objected very much to the landlords being absentees, which used to be the great cry in

Ireland? Yes, I certainly wished to have resident landlords if I could, though some of the best landlords that I have known have been absentees.

3021-2. Are you of opinion that this Act is likely to increase the number of absentees?

I should think not; I do not know; that is also a speculative question; but I think, if the country settles down, as we must all hope it will, and that the judicial rents be fairly paid, there is as much inducement as ever for the landlord to live in the country.

3023. Marquess of Salisbury.] His position as to the tenants is a very different one to what it was, is it not?

He has not the same power over his tenants as he bad, but he can live in the midst of them, and have all the country sports and the position of a country gentleman; nothing will be taken from him except the power of altering rents.

3924. Lord Brabourne.] Has he the country sports at present? At the present time the country is certainly in an abnormal and unnatural

state. 3925. Earl of Pembroke and Montgomery.] Would not there be very little

husiness occupation for an energetic laodlord under the Act living on Itis estate? As much as in the case of a landlord who had given leases over the whole

of his estate 3926. Marquess of Salisbury.] There would be leases perpetually falliog in; then he would have to deal with the renewal of those; he is relieved now of

that labour, is he not? There are renewals at the end of every 15 years under our present Act.

3927. In the form of litigation ? In the form of settlement of some kind.

3928. Lord Brabourne.] Is it not rather a different thing whether a man voluntarily gives a lease and voluntarily agrees to a renewal at the end of that lease, or is bound in perpetuity to give a lease? Of course, there is a very great difference in that respect, and there is a very great difference in the position of landowners in Ireland in our time, politically

and otherwise, but I still think, that if the country settles, as I trust it will, and things become peaceable and quiet, and the judicial rents be paid, as I think they will be, there will be very great attraction and inducement for a landlord to live amongst his tenantry, and not away from them.

3929. Lord Tyrone.] I would like to ask you a question with regard to that, You are aware that a certain number of landlords (I think a large number) were in the habit of taking great interest in their estates, and giving money for improvements; do you think that they can go on doing so under this Act; or

that there is any inducement for them to go on doing it?

I suppose there is not the same inducement. Have your Lordships considered what number of that class of landlords, that is the indulgent class of landlords, have actually been made subject to the operation of the Court?

3030. Will you kindly tell us how many are exempted from it? None of them are exempted by law, but I mean to say as a matter of fact.

3931. Lord Brabourns.] Is not this a fact with regard to the relations of landlord and tenant in Ireland, that your Court, which you defined just now, may be defined as a Court which interferes with, or rather assists people to regulate (0.1.)ZZ4 .

[Continued.

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regulate one of the ordinary transactions of life, that between landlord and teoant; whereas, hitherto, they have always settled between themselves without any interference?

That was a question for the Legislature when it passed the Act.

3932. It alters the position of the landlerd, I meao, does it not? There is an alteration in the position, no doubt.

3933. Lord Tyrone. With regard to what you mentioned just now about the sporting rights, I should like to ask you this question, what position is a landlord in now, supposing that the tenant does not give him the sporting rights that are granted to him under a statutory term, or suppose that the tenants choose to peach or to allow other people to peach under a statutory term, what is the landlord's position?

The tenant violates the law.

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1934. What redress has the landlord?

Does your Lordship ask as to what summary mode of redress he has before the magistrates.

3935. Has he any redress, I want to know? Certainly, he has a redress.

3936. What redress?

If the exclusive right of fishing be reserved to him-

3937. I do not mean fishing?

If the exclusive right of shooting be reserved to him, or the exclusive right of game be reserved to him, and the tenant takes game upon the land, that game is the property of the landlord, and the londlord may sue the tenant for it.

3938. In Petty Sessions Court, or the Sub-Commission Court? In the ordinary courts of law. The Sub-Commission Court would have no jurisdiction over it; or he might obtain an injunction against the tenant, I apprehend.

1939. From the superior courts in Dublin, do you mean? Or the Civil Bill Courts, if it comes within the jurisdiction of the Civil Bill Courts.

3040. You say you have got 80,000 cases before the Court, and there is some 520,000 left outside we will say; in the case of most of those, as you are aware, in Ireland, there is no agreement of attornment of either shooting or fishing to

the landlord ? No. 3941. What power has the landlord of preserving the game upon his property

in any single one of those cases until he brings them into Court? You mean the cases of tenants from year to year under an ordinary tenancy, apart from our Act altogether.

3942. I am bringing your Act into it, because your Act alters the position; the landlord could protect himself before your Act was passed, because he could serve a notice to quit? That was the only power he had.

3043. Now he cannot do that, can he?

He can.

3944. But then you would stay the operation of the Act, would you not? The tenant can only stoy it by coming in to have a fair reot fixed, and applying to the Court where the proceedings are pending to stay any ejectment

grounded on the notice to quit. 3045. What possible or probable chance has the landlord of preserving his property, if he has to wait until the 80,000 cases you have mentioned are got through, and probably a portion of the 520,000 cases as well. All the game or fish he has may be destroyed in the meantime; what protection has he under those circumstances?

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The case your Lordship puts is that there will be so much delay that in the meantime the tenant would set his landlord at defiance.

3946. Quite so i

I do not know, but I should think there are not very many tenants who have not gone into court, who are not presumably living on friendly terms with their landlords, and who would deny to their landlords the ordinary sporting rights.

3947. It has occurred on my own and on many other properties I am aconainted with, that the sporting rights have been taken from the landlords by the tenants, and they have no redress whatever under this Act. That is the reason why I have asked, and I am afraid you cannot give me any satisfection

under the circumstances

If it were not for what your Lordship puts, namely, tha present delay arising from the number of cases in court, I think I have onswered your Lordship very satisfactorily. For example, take an ordinary time; if a tenant from year to year refused, say, to let a landlord go upon his farm and say you commit trespass if you enter upon my land, the landlord could say what he could have said before, namely, "I will serve you with notice to quit." Then the tenant would say, I will bring you into court to fix a fair rent; but the landlord may rejoin, Very good, then; I will have my sporting rights reserved to me by the Land Commission, or I may turn you out unless the County Court Judge stays my proceeding to do so.

2048. I do not raise the question of the landlord going on the firm, but merely the question of the preservation of the property. Prohably, as you are aware, if the preserving of any closes of game is delayed for a certain time, and everyone is ollowed to poach it, it becomes valueless; therefore, if the landlord has to wait until the case comes into court, it may be two or three years, the game becomes of no value to him whatever. He evantually, no doubt, can hring the tenant to terms, but at a time when the game that he wants to

preserve is utterly done away with? That may be an inconvenience undoubtedly arising out of the present state of things.

3949. Viscount Hutchiuson.] There is one point arising out of that that I should like to be clear about. We will suppose it is the offending party in the

matter, but that the tenant's farm is entared by some other person to whom is granted game. Does the grant of game in your court give the landlord the right of prosecution, which he would not bave had before? The landlord has the right of prosecution at present, if I remember rightly,

uoder the Petty Sessions Act, and there is nothing to take that away from him. Formerly the tenant alone could have prosecuted the party by whom the trespass was committed, but the law was altered in that respect, and the landlord acquired the right of prosecuting hy himself, which right has not been taken away by this Act.

3950. Lord Tyrene.] Mr. Litton told us that the Snb-Commissioners were not to be changed more than was necessary, for certain family reasons of some description or other, and that the Chief Commissioners intended to keep the Sub-Commissioners in the different localities in which they had learned their work and learned the class of holding, and the class of tenents, and the class of landlords; I want to know whether that has been carried out : As for as possible.

3951. But is it not the case that almost every Suh-Commission in the south of Ireland has been removed from the place in which it was working?

I think not. I think I can tell you the present Suh-Commissions; I do not know that I could be quite sure about the former ones. It is perfectly true that we have changed the Mayo Sub-Commission, and brought it to Kerry. The gentleman who was the legal Commissioner put forward some strong reasons for not being kept so very far away as Mayo, out we changed the Sub-Commission from Mayo to Kerry, but the Sub-Commission which was formerly in Kerry, and was for Kerry and Cork, has now gooe into Cork.

3952. I do not allude to that, but that is another case in point; I will 3 A mention. (0.1.)

Continued

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mention, for instance, the Sub-Commission working in Wicklow, which was a very important Sub-Commission, because it had to learn a business which other Sub-Commissions had nothing to do with; it had to learn the question of the stint of sheep, which perhaps you are acquainted with?

3953. That is a very important question, and there is an important decision of that Sub-Commission that is likely to come up for appeal; that Sub-Commission. after having learned that very abstruce question, has now been removed, and another Sub-Commission put in its place; do you think that will be advantageous?

I think I can tell you what the present Sub-Commission for Wicklow is It appears to me to be a very good Sub-Commission indeed.

3954. I am not finding fault with the present Sub-Commission at all, I am only finding fault with the fact that after men had learned their work they should be removed?

You cannot have everything square.

3455. I do not know myself who the Sub-Commissioners are?

The present Sub-Commissioners are Mr. Fitzgerald, the legal Commissioner, Mr. Edward O'Brien, who himself is a landlord, and Professor Baldwin is the 3056. I have no fault to find with the Sub-Commissioners; I do not know

anything about the Sub-Commissioners that have been appointed; I merely draw attention to the fact that another Sub-Commission bad to learn the work of Wicklow, which is a very difficult work to learn ; it is different to that of the other Sub-Commissions; they have all the work of the land to learn, but in addition to the land they have to deal with the rights of turbary and the sheep question, which are extremely complicated matters, and that Sub-Commission has been removed; I will give you another case of a Sub-Commission having been removed, that is the Sub-Commission acting in Waterford; that has been removed?

When the four new Sub-Commissions were appointed, of course the areas were restricted, and the area being restricted we had to make some shifting, It was inevitable in some cases to make changes, but we went upon the principle of making as few as possible.

3957. That is what I wish to ascertain; you did act upon the principle of making as few changes as possible? We did.

3058. And retaining those who had learned a district? We did, as far as possible,

3959. If a tenant who owes a large arrear of rent applies to the Court to have his rent fixed, proceedings in ejectment would be stayed, would they not?

Only by the Court that has cognisance of the ejectment, not by us. 3060. The tenant might not leave the arrear pending until be got the rent

fixed ? Certainly not.

3961. I have a note here about that fact, " Case in which the tenant applied to the Court for an extension of time, which they granted him "; what Court would that be?

That would be our Court; that is a different matter. That is extending the time to redeem which we have in conjunction with a right to extend the power of selling his holding. We have got that under a particular section of the Act. The tenant is entitled to sell the holding, under the provisions of the Act, in ejectment for non-payment of rent, up to the period allowed by law for redemption, which is six months from the actual taking possession by the sheriff of the holding. We have got power to extend the time where the tenant is about to sell his holding, and in doing so we always impose the terms that the tenant must pay a considerable portion of the reot due by him before we extend the term. 3062. Have 25th April 1882.] Mr. Justice O'HAGAN.

HAGAN. [Continued.

3962. Have you always imposed those terms ;

On the first day or two we did not; but almost immediately after we did; and certainly, have done so steadily for some months back.

3963. There is a case mentioned of Owen w. Day, in which the landlord made

3003. There is a case mentioned of Owen v. Day, in which the landlord made application to have a certain sum of money paid into court, and according to my information the court refused it?

my information the court refused it?

I am unawaye of the details of that case. If they were furnished to us we load investigate it, but I can assure your Lordship, that almost from the beginning, overhally for a long time back, we have never grented that extension except upon the terms of the tenant paying a certain proportion of the rent, generally half the rent due-

3964. Viscount Hutchinson.] What has the result of that been. Have you had schesquently to dismiss many applications because those conditions were not compiled with?

Yes, several of them.

3965. The majority?

No, I should think not the majority.

3966. Lord Tyrene.] In the case I mentioned, and which is rather a noted case, the landlord appealed, and your court increased the rent upon which the tenant levanted and left all the arrears which had accrued hefore and during the time the thing was pending due to the landlord:

That is a result we could not I suppose in any way have guarded against.

39ô7. If the tenant had been obliged to lodge the money in court that would have been guarded against, would it not?

As I have told the Committee, I do not remember that particular case, but I can assure your Lordship that if in that case the time was granted without the tenant paying any of the rent due, it is contrary to our general practice, and I

do not remember such a case.

3g/8. I understood you to say that you would not object to the Sub-Commissioners handing in such a statement as that which the Noble Marquess near me showed you, and which was handed in hy Mr. O'Brien?

No.

3g6g. You would have no objection to that? No objection to their stating the particulars of the improvements they have found there, and the question of any deterioration.

3970. But they do not do so at present?
No, they send the improvements at present, but not any statement of the value

of the improvements.

30j1. Would it not be better if they stated the value of the improvement?

I have already in answer to his Lordship the Chairman stated that we have very fully considered that, and thought it inexpedient to require them

to do so.

3072. You said just now you would have no objection to their doing so?
That is the improvements themselves, not the value of the improvements.

1 ag 73. You would have no objection to the Suh-Commissioners handing in the same kind of statement as Mr. O'Brien did?

No; it does not state the value of the improvements, but merely that the improvements exist.

3974. With regard to the position of a tenant who serves a notice upon the

County Court to have his case heard hefore it, can it be removed from the County Court upon the application of the landlord? Yes, certainly.

3973. But suppose a tenant, or we will say a landlord, series the notice upon conference on confer

the Sub-Commission Court, can it be removed to the other court on application?
(0.1.) 3 A 2 No: Continued.

No: there is no power given by the Act to remove to the County Court.

2076. There is only power given by the Act to remove from the County Court ? Only from.

2077. With regard to the position of a middle man, is notice given to the middle man when rent is about to be fixed?

The notice is not given necessarily to the head landlord, but the head landlord has a right to intervene. We have guarded carefully the right of any person to intervene.

3978. Viscount Hutchinson.] And the mortgagees as well? The mortgagees as well.

3979. They get no notice?

No, but they have a perfect right to intervene.

3080. How are they to know that proceedings are going to take place? They must ascertain as they hest can; they will very likely see the public notices. We do take pains with respect to certain of our cases, viz., cases of the arrears question or cases of sales, or cases of agreement between landlords and tenants. Wherever the laodlord and tenant agree to fix the fair rent, and it does not come into Court as a contentious proceeding, we publish must exrefully the agreement, and suspend its operations for three months in order that persons interested might come in; and that we considered very necessary to avoid collusion between an insolvent mortgager and the tenants. We never act until after lapse of time and very full notice; but in case of an ordinary tenant coming into Court we would have no means of ascertaining who the mortgagees are.

3081. It has happened, we are told occasionally, by the operation of the Commission generally or of the Sub-Commissioners, that the margin, which represents the difference between the actual gross income of the landlord and the amount he has to pay to the mortgagees, has been entirely swept away? That might happen.

3982. It has happened, I helieve, but surely those are cases in which the interest of the mortgagee ought to be very carefully considered, and where certainly notice of some sort ought to he given, are they not?

Yes; hut in cases of that kind we have no means, you will observe, of knowing who the mortgagees are, and therefore we could not serve them with knowing wind the indegrages and and interest to viz., of agreement between landlord and tenant, to fix the rent is to suspend the ratifying of that for a certain time, to advertise the agreement as extensively as we can in England, Scotland, and Ireland, in order that the mortgagees might have every chance of knowing it. But in regard to the ordicary case of a landlord coming into Court, two things are to be observed; first, we have no means of knowing who the mortgagees are; secondly, in the case of a mortgagee with a limited margin, he can very well ascertain whether his mortgagor is coming into Court, hecause the lists are published, and we give him the right to intervene.

3983. Chairman.] What is the chance of the mortgage: becoming aware of one of those advertisements which you say you advertise; you say you advertise :

We do, in the "Dublin Gazette," and we advertise in the several papers in Dublin, and also in England and Scotland, the fact that those agreements are scheduled, and set out in the " Dublin Gazette."

3984. Suppose I am a mortgagee, what chance have I of seeing one? By seeing the announcement that agreements between landlords and tenants

have been scheduled, and are to be found in a certain journal. 3985. If I see the advertisement I agree, but what chance is there of any mortgagee seeing the advertisement? I should think the same as of his seeing any other notice.

3086. Lord

[Continued.

5th April 1882.] Mr. Justice O'HAGA

3086. Lord Brabourne.] Are they put in the London newspapers? The reference to the schedule in the "Dublin Gazette" is put in the London newspapers.

3987. Lord Tyrone.] What London newspapers? The "Times."

3088. Viscount Hutchinson.] That only applies to the agreement? To cases of agreement. 3080. Lord Tyrone.] With regard to the specified value of the tenaucy when

that is fixed by the Court, have you any objection to tell us how that sum is arrived at? It is a very difficult jurisdiction to exercise, because as yet there have been

very few sales in Ireland of the statutory tenniory, and therefore there has been will little has in the way of precedent by which the Court can ascertain what the property of the property o

3990. Are you aware whether they ever take into consideration what the tenant would get under the disturbance clauses?

I have heard that one Sub-Commission (and I really could not specify which of them) had taken into account, in the absence of any proof of what the holding would bring in the open market, what the tenants' rights were under the Act of 1870; but it does not appear to me that that is the true meaning of the section is the value of the tenancy, namely,

its price.

3991. Do you think it likely that tenancies will sell for large prices under
this Act the same as they used to do?

this Act the same as they used to do?

I think they will; very likely not for such extravagant sums as were obtained in the north of Ireland, but for fair prices.

3902. Chairmen.] Have you beard what any tenancies have sold for in the parts of Ireland where the Ulster custom did not prevail?

I think there was a case in the south, I saw in a newspaper of six years'

purchase having been got.

3993. We have had cases mentioned before us of considerably more than

3993. We have had cases mentioned before us of considerably more than that; but you do not know of them? No, the only one I saw was six years.

3994. Lord Brabourne.] Do you know at how many years' purchase tenant

right it that bought? "Re, I have bought growth processing the second processing the sec

desires to be the owner of, and in that way the extravagant prices have been gof.

3995. Is it not a fact that these are obtained because free competition enters
into the largain which the landford has not got?

Undoubtedly, free competition has entered into the bargain, but that is
cbecked by giving the landford a pre-smption by the Act.

3996. But when the landlord has the judicial rent fixed, that regulates the value, and pratically excludes competition for that farm, does it not?

Of course, so far as the rent is concerned.

3 A 3 3997. A tenant

(0.1.)

Mr. Justice O'HAGAN. [Continued. 25th April 1882.] 3997. A tenant selling his tenant-right, unless the landlord, which is not very

often the case, exercises the right of pre-emption, has pratically the element of competition in open market by which he can ascertain the value of his tenantright? He has undoubtedly, unless the landlord exercises his right of pre-emption.

3998. That is not very often the case, is it? We have had so very little experience as yet that we can hardly speak of it.

3999. Lord Tyrone.] Supposing good prices to be realised for tenant-right under this new Act, I suppose that in all probability the tenants of Ireland in

future will be paying higher rents than ever? They do not look at it in that way; you would add the interest on their purchase-money at 5 per cent. to the rent they are paying, and say that the rent is higher than ever; but they never consider it in that way.

4000. But it would be the fact if you did it?

Taking it in that way, and considering the purchase money as part of the rent, and estimating the purchase money at 4 or 5 per cent., certainly that might be the result.

4001. Earl of Pembroke and Montgomery.] And if they borrow the money to buy with, it would be so practically, would it not?

Yes, if they borrow the money to buy with it might be so. 400z. Marquess of Salisbury.] Do they do so?

I think not often. I think it is generally money they have lying by.

4003. Viscount Hutchinson.] With regard to the reports of your valuators which you alluded to just now, bow far are they public documents?

They are absolutely given to the parties. The view which we laid down in consultation with the counsel in the first case that was heard before us was, that we would give them to the professional men engaged, so soon as the evidence on both sides had closed, and before they addressed us. We thought it right not to give them in the first instance, because in that case the whole evidence and conduct of the case would be directed with reference to that report.

4004. They are merely documents for reference; they are liable to be commented upon by counsel, but not be tested in examination or cross-examination? That is so.

4005. Of course at the end of a case, when the case is in fact practically concluded, the arguments at an end, and nothing remains but for the counsel to make what remarks they please upon the document, it may happen that upon one party or the other (I do not say which), some mine is sprung in the way of undiscovered improvement, or something which has come under the notice of your valuator, that neither party has taken any notice of, and that neither party is prepared to deal with in court?

It there were any case of surprise of that sort, we should certainly adjourn the case. 4006. You have bad nothing of the sort happen?

No. nothing of the sort.

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4007. Marquess of Salisbury. When the Sub-Commissioners were appointed, was there any kind of communication from you to them as to the principles on which you would wish to adminster the power delegated to them? Not the least.

4008. None whatever?

None whatever. We thought it would be very wrong to say anything of this kind to them considering that we were the judges of appeal, 4000. Of course there were the rules laid down?

There were our ordinary rules, which of course they could read. 4010. Subsequent 25th April 1882.7 Mr. Justice O'HAGAN. Continued.

4010. Subsequent instructions we heard from Mr. Godley were sent in the form of letters ?

There were some instructions which Mr. Godley, I think, gave to your Lordships with respect to not receiving hospitality.

4011. And making speeches? Precisely.

4012. You also bad some conversation with them as a body before they started on their mission, did you not?

Yes, we asked the first Sub-Commissiooers appointed, who were 12 in number, to come and meet us in our large room in Merrion-street. One of the objects in doing so was to get to know one another. We got them there, and they sat round the table, and we asked each of them to mention what his notion was with respect to fixing a fair rent. Each of them gave his idea, but we did not give them any of our ideas.

4013. You simply accepted their statements, but you did not go into the subject yourselves?

No: one of the Sub-Commissioners asked us to state our views, but we said we thought that would be an impropriety on our part.

4014. For what purpose did you ask them to do this; did you imagine that they would be guided by each others views? Yes, and we were anxious to hear their views, and it aided us to know the

4015. Was there such an unanimity among them as to lead to the

impression that they would act upon a uniform system? There was an unanimity to this effect, that the majority of them (I think with the exception of two gentlemen) stated what has been really the result.

namely, that in the matter of fixing a fair rent you must be guided by your experience, that is what you as an experienced valuer of land would believe to be a fair rent under the circumstances between landlord and tenant. 4016. Then these 12 gentlemen had no such experience before, they being

legal gentlemen? Four of them were legal gentlemen, and their function was to see evidence properly, and decide legal points.

4017. Practically the expression of opinion was confined to the other eight? It was : we heard what the others had to say.

4018. Earl Stankope. But some of those 12 gentlemen did not understand the question of valuing land, did they?

I think all the laymen understood it very well.

4010. They had not any previous experience ? One gentleman made an answer which made us smile, because it would in fact leave the teoant little or nothing. I remember Mr. Vernon was much amused by it, because he said if you give the landlord so much as that, no tenant could live. That gentleman gave so large a proportion of the produce to the landlord, theoretically, that it led to that remark. But I believe that gentleman has made one of the best and most efficient Sub-Commissioners, though he was not quite able to express his ideas as to the value between tenant and landlord in point of theory.

4020. What was his theory? I do not think it fair to mention it, but it was a certain division of produce, which would give the landlord the liou's share.

4021. Then he did go into srithmetical divisions?

(0.1.)

Yes; it was upon that he said, My opinion is that the landlord should have so much and the tenant so much, and that made as smile; at least it made those smile who had had experience of land : but that gentleman, I may mention, has made a most excellent Sub-Commissioner, and his decisions have given general satisfaction.

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4022. Was

25th April 1882. Mr. Justice O'HAGAN. Continued.

4022. Was there a general tendency to reduce the matter to an arithmetical problem ?

Not at all, with the exception of another skilful geutleman, who went into detail more elaborately. All the rest I think merely stated their notion of what

a fair rent was, and that they were to be governed by what their experience of land was in deciding what ought to be a fair rent under the circumstances, 4023. You would say that they went into the matter with no principles, but

relying upon the rule of thumb? I do not say the rule of thumb; but, for example, take a gentleman of great

experience, such as Mr. Gray, our valuer, or Mr. Russell, and ask him what his principles are, and he will tell you there is no principle except experience; nothing will teach him what rent ought to be paid in a particular case except his experience of land, and his knowing the produce that the particular land may make, and what therefore the tenant who has it can afford to pay for it.

4024. Would not Mr. Gray's definition of the letting value of land be the value for which the land will let?

No, because otherwise you would bring in entirely the element of competition. His definition would not be that, for which it would let in extreme competition, but what it might fairly let for, putting aside extreme competition.

402%. Is there no principle for deciding that? Nothing but experience, I apprehend. I would a great deal rather your Lord-

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ship asked Mr. Vernon upon that subject; he is a great deal more competent than I nm to deal with it. It occurs to me from my observation, and I had also a great deal of experience of it, when I sat as chairman, and endeavoured to settle questions between landlord and tenant, which I very often did in claims for disturbance and improvement, when I tried to get them together again. I never found there was any real principle except what men of experience in the neighbourhood stated the land might fairly pay.

4026. You have to cut the cake into two morsels, but there is no principle whatever upon which to decide what those morsels shall be?

Except this, that the valuer who has been accustomed to value land knows. just as a person who is accustomed to value any other commodity knows, that the land would be dear at one price and cheap at another.

4027. That introduces the fatal element of competition?

To a certain extent there must be the element of competition, but it is not an extreme competition.

4028. A fair rent must be rather decided, must it not, with reference to the recollection of what competition would give them, not in proportion to what competition would have given; but with the recollection of what the market would have given when the market was open, that must he one of the elements,

and one of the main elements, by which it is decided now, must it now? I suppose it is not entirely excluded, but I rather think it is that they have learned by experience and knowledge the value of land; they can tell you, having investigated the land, that a tenant taking that farm and paying so much for it, can fairly afford to pay that price for it, and that a tenant paying such another price could not afford it, but would be a broken man.

4029. I trouble you with this rather because there seemed to be some traces of principles somewhere in the observations that Professor Baldwin frequently let all from his seat on the bench. He speaks of the principles on which he and his colleagues were agreed, and we had some curiosity to find out what they were?

I could not give your Lordship any information as to that.

It amounts, I think, to much the same thing,

4030. That preliminary interview would not throw any light upon it? I think he did state a canon, but I could not undertake to repeat it. 4031. Unfortunately he has taken that away with him and acts upon it?

4032. Lord

4033. Lord Brabowne.] All the gentlemen hut two said they would be guided by experience; did the other two wish to ignore experience

No. not at all. 4033. Only they had not any?

25th April 1882.]

They were all men of experience in land; we were not responsible for the choice, but as far as we know, and as far as they have proved themselves, they have been men of experience.

4034. Lord Tyrone.] Have all the Suh-Commissioners lately added been men of thorough experience in land; I am talking of the four additional Sub-Commissioners ! Yes, I presume so, from the Government having selected them for the

purpose. 4035. Chairman. From the fact of their heing Suh-Commissioners?

From the Government, after very careful inquiry, having selected them.

4036. Lord Tyrone.] Have any of them heen employed in other capacities hefore with regard to the Land Commission?

Yes, one of them, Mr. M'Causland, was an assistant registrar of the Land Commission.

4037. Did he learn much as to the value of land as an assistant registrar? I suppose he must have learned a good deal as assistant registrar, but I helieve he knew n good deal before.

4038. Lord Brahowree.] There is one point I should like to ask you as to what a farm would fairly let for. Is the character and position of the tenant ever taken into account; what I mean is this, a tenant who lives on a farm,

and expects to live like a gentleman upon it, will require to have more money, and be able to pay less rent, then a man of less pretension in his position; is that taken into account? Certainly not: at least, if it he so, it is contrary to all principle, that we could

put less rent on a man who desires to live like a gentleman. 4039. Would you consider how the tenant ought to live; do you take into

account his position at all? My experience is greatly derived from the hearing of appeals; hut, most undountedly, it appears to me a ludicrous idea that a man should appeal to us to have his rent lowered by reason of his own personal habits being more expensive. We must take the average condition, the average mode of life of people of that class, and also the average size of the holdings. Those things of course must be considered, but neither should a man's rent be lowered because he is extravagant, nor raised hecause he is of a saving and thrifty disposition.

4040. Take snother case: a man who has used his farm well, and kept it up highly, and spent his money upon it, or a man who has lived very closely, and used his farm badly, though you could not positively say he had deteriorated it, still he had not improved it, would that have any relation to the fixing of the rent, or do you exclude altogether what the man might he?

Of course, if he had improved his farm, we are bound then hy law to see that, except so far as the 4th Section of the Act of 1870 intervenes, he should not be made to pay rent upon his own expenditure. We are hound to see to that; and in the same way, if the man has seither improved his farm nor deteriorated it, the matter just remains very much as it is; he is entitled to neither praise nor blame; but you must take the average circumstances of the case.

4041. Then in estimating the fair rental of the farm you neither take into consideration the character and position of the tenant, nor what competition might give : what is there left you hy which you can lay down any standard hy which to judge of the fair value that a man might give?

It is judged of, I apprehend, by the experience of men acquainted with the value of land. I do not know that you can put it further than that, at least no one has ever brought to my intellect anything more than that.

4042. Does (0.1.)

Mr. Justice O'HAGAN.

25th April 1882.1 [Continued.

4042. Does it not come to this, then, that instend of competition that used to regulate more or less the letting of land in this country, it is actually the individual opinion of the person who has to settle the rent, with nothing to guide him except what you call experience?

Suppose this had taken place before the Act at all; suppose a landlord and tenant agree to appoint an arbitrator to settle the rent between them, that arbitrator would, I apprehend, just consider what would be a fair rent under the circumstances, and use his experience as a man acquainted with the value of land : that would take place in England as well as Ireland.

4043. Was that a constant babit in Ireland?

the character of an individual tenant ought not to be,

I think it was by no means singular; I have myself induced a landlord and tenant to do that, saying, "Will you leave the settling of this to So-and-so."

4044. Was not that on some preliminary understanding; the landlord might bave said, "I will not let my land under 500 l.," and the tenant might say, "I will not give more than 400 L;" in such a case as that you might appoint an arbitrator to see whether one was right or the other; but that is a different thing to fixing ab initio what the rent should be, is it not?

There is that difference, that the one is voluntary and the other comes from the law.

4045. When you apply a compulsory power in that way there must be confusion and uncertainty of principle, must there not?

I should not like to use the words confusion and uncertainty of principle, but there is a departure from the old principle. 4046. An individual might be guided by a principle, but it is difficult to find a uniform principle to govern a number of meu is not that so; you have found it

difficult to find a uniform principle to guide all the Sun-Commissioners? It may be so.

4047. Marquess of Salisbury.] You said you did not admit the character or position of the tenant to be an element in fixing the rent? Not of the individual tenant; but that is a different question. The general average of the tenantry of a district must be taken into account ; but certainly

4048. Then I will not ask you with reference to an individual case, but whether this is a correct report of your views in reference to the Worthington property. "Mr. Justice O'Hagan said the Court had decided to reduce the judicial rent in each of the cases, with one exception, by 1 1., and give the tenants 1 1. costs.

The reason for this decision of the Court was the increase of rent put on, the poverty of the tenants, and their deserving character." I suppose you would hardly acknowledge that to be a fair report of your judgment ? By no means. What we said was that they had been poor, but improving tenants; it was not said in relation to their poverty. They had been poor tenants who had improved their farms.

4049. Are you not a little hampered by the views of your judgments that are put into the newspapers? Perpetually.

4050. Lord Brabourne. On one other point let me ask you a question, that is as to what Lord Waterford was discussing just now; is it within your knowledge that any mortgagees, finding their security considerably diminished by the decisions of the Sub-Commissioners, have given notice of foreclosure? That has not come before us.

4051. Chairman.] Let me ask you a question that I ought to have asked you before. You were asked about the Sub-Commissioners putting down a sum to represent the value of improvements made by a tenant as to which he would not have to pay rent, and you spoke of the case of Ulster as a case which would cause some embarrassment in the Sub-Commissioners doing so; how does it appear to you that the case of Ulster would differ from the rest of Ireland; I do not say that it does not differ.

I think

25th April 1882.7 Mr. Justice O'HAGAN.

I think I gave your Lordship my ground of opinion, namely, the improve-

ments there may be an element of the tenant-right, but they take the tenantright as a whole and say, the tenant's interest in the land is so much, and the landlord's interest is so much; and then they say the landlord's rent ought to be so much, having regard to the tensat-right of the district. I do not myself profess to comprehend how the valuers of land value it in Ulster, but they do all go upon that idea, and we find that that is as much the case with the landlord's valuers as with the tenant's. 4052. That is consistent with what we have heard from other quarters, but

does not that go to show that the clouse which is called Mr. Healy's clause has no operation in Ulster at all? I think it has little or no operation where the Ulster teaunt-right exists. I

do not know whether your Lordship observed in the case of Adams v. Dunseath (whether by accident or design the fact is so) that it was not proved that the case was subject to Ulster tenant-right.

4053. We know that in parts of county Antrim the Ulster tennat-right does not prevail, but taking a holding where the Ulster tenant-right prevails, and supposing the Ulster tenant-right to prevail on the way you have mentioned, namely, that the valuer says that the landlord's fair rent is so-and-so if a tenant where to sell his right, we know that be would get such and such a sum for it in the market; does not that altogether oust the consideration of improvements? I hope your Lordship will not ask me to pledge myself to a judicial opinion.

4054. Pray do not imagine that I do so?

In that case I would be disposed to say that I agree with your Lordship. 4055. Lord Tyrene.] With regard to the redress that the landlord hus, not

only as to game, but other things also, there are circumstances in which a landlord may wish to use the powers he may possess, such as the power to give notice to quit, for instance, and tenants creeting Land League buts upon their holdings, or virtually sub-letting; tenants breaking the rules of the estate about taking in sheep upon mountains, and things of that description (I am only mentioning two, but there are many more); what redress has a landlord under the present Act if that is done by a tenant who bas not taken out a statutory term; as tenant from year to year, his old redress would have been to serve a uotice to quit; that as you have allowed, is taken away from him?

No, it is not taken away from him.

4056. It is stayed? Nor would it be stayed either. It would only be stayed by an application to the Court, namely to the Civil Bill Court or the Superior Court, and if the

Court.

tenant acted unreasonably they might refuse any stay. 4057. Who would stay it? The chairman of the quarter sessions would stay it, or a judge of the Superior

4058. It would not come before you?

No; the power of stay in that case would go to them.

4050. If the landlord could prove that the tensut had acted unreasonably you apprehend be would not stay it? Certainly.

4060. He would refuse to stay?

Certainly he would refuse to stay, except upon the terms of the tenant cessing to do the unreasonable thing.

4061. In the case we have heard so much of lately about erecting a hut apon a farm, he could take no other action against the tenant except proceeding by notice to quit, could he?

I am not aware that under an ordinary agreement for a tenancy from year to year that he could. If he has sub-let his holding and let another person into possession of a part of it, so as to deprive himself of being substantially the occupier or really the occupying tenant, he would be subject to a further penalty. Then he would be outside the Act of 1881, and mahle to get a fair rent fixed. 4062. Would (0.1.)

25th April 1882.] Mr. Justice O'HAGAN. [Continued.

4062. Would the landlord be able then to serve him with notice to quit? The landlord would be able to serve him with notice to quit, subject to the tenant serving him with an originating notice to fix a fair rent.

4069. Suppose he is in occuration of part of it?

4003. Suppose he is in occupation of part of it Those points may come for decision hefore us.

4064. I am not wishing to get a decision from you, but I think it is au important point?

That would be a logal question. I may say it was argued and contended before us very strongly within the last week that a tensat permitting a very very small portion indeed, a rood, or half a rood only, to be in the occupation of another person, that he was no longer the person in occupation of the dram, and another person, that he was no longer the person in occupation of the dram, and it turned out upon the particular feets of that case that the insulted had implicitly consented to his sub-letting, so that he was still within the Act.

 $_{40}$ 65. The question that I am asking is an important one as regards the position of tenants-at-will in Ireland. Under this Act you will allow, no doubt, that they are placed in a very different position as regards any of those breaches

of condition to what they were before?

They are placed in this different position that before the landlord can eviet them on notice to quit they can come in and have a fair rent fixed, and in the mean time they can apply to the court in which the ejectment is pending to stay.

the ejectment.

4066. That might take a very long while, might it not?

That cannot take long; that is a matter of a few months.

4067. What I mean is this, the question of having their rents fixed might take a long while? It may, owing to the present state of things.

at may, owing to the present state of things.

4068. Therefore ull those in Ireland, who stay outside the court, have the

power of hreaking these different conditions under the Act of 1881, without there heing any redress in the hands of the landlord? If your Lordship will follow what I have said I think you will see that that

is not so.

4069. There is no redress until the rent is fixed, is there?
Certainly; the Civil Bill Court would not stay a proceeding if the tennat has

acted unfairly or unreasonably.

4070. Viscount Hutchinson.] I think we may say that the present mode of proceedings is a little more anywhereous than it was hadow, more we not to be a first than the same any beautiful to the present mode of the present mode.

proceeding is a little more cumbersome than it was before, may we not?

I cannot enter into the reasons of the Legislature.

The Witness is directed to withdraw.

Mr. JOHN EDWARD VERNON, is called in; and Examined, as follows:

4071. Chairman.] You have had, I need not say, a long experience in connection with land in Ireland?

I have.

4072. Both as agent for property, and, I helieve, as proprietor?
In hoth relations. I have been a land agent for very many years, and very

extensively engaged.

4073. And you have been, I believe, a Governor of the Bank of Ireland?
I have.

4074. Do you happen to remember what is said to be the number of occupiers of agricultural holdings in Ireland altogether?

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25th April 1882.] Mr. Vennon. [Continued.

I think in the evidence before Mr. Shaw Lefevre's Committee, it was taken roughly as 600,000, but I am not sure that that is perfectly accurate.

40.75. Supposing the number to be that figure, or something like it, have you any idea how many of those would come under the Act of 1881, or to how many of them that Act would be applicable?

I take it that the 600,000 applied almost exclusively to agricultural tenants; they of course would be all included, save where they were excepted under special conditions, such as in pasture holdings, and others under the reservation section of the statute.

4076. And leaseholders? And leaseholders, of course.

4077. Have you any idea what reduction on all those scores ought to be made?

No, I could not say what proportion the leaseholders bear to the ordinary agricultural tenants not holding by lease, but I should say that very much the larger number hold without lease in Ulster; the lease is quite the exception there.

40.78. Have you in your mind any recollection of the rental which those 60,000 holders would represent?

No, I do not think we have any figures that give that with accuracy.

4079. I suppose, then, we agree that the number of actual proprietors of land in Ireland is very small in comparison with the number of occupiers?

and in Trende is very small in comparison with the humber of occupiers?

Very small.

4080. There were arrangements made by the Act of 1870, under what were called the Bright Clauses, for promoting the purchase of holdings by tenants,

and I think you stated, in your evidence before Mr. Shaw Leferre's Committee, that you considered that those clauses had been a failure?

They had been an absolute failure; and at that time I gave some reasons why I thought they had been so.

4081. So far as experience has gone, in the short time since the Act of 1881 was passed, would you say that the clauses in the Act of 1881 on this head had

been successful?

No; I could give you the precise amount of the applications made, and the orders made, if your Lordships wished it.

4082. If you have that information at hand we will be glad to take it, though, I think, we got it some time ago?

I think the whole amount is something like 84,000 L applied for altogether.

4083. Lord Tyrone.] And how much has been granted? I forget, but I can give your Lordship the precise figures.

4084. Chairman.] Does the 84,0001. you have mentioned represent money advanced upon the purchase of land by the Commissioners, and resold to the tenants?

tenants?
No; it represents purchases by the tenant from the landlord entirely; there has been no sale to us of land from the landlord direct.

4085. Are you still of the opinion which you expressed in your examination

before Mr. Shaw Leferre's Committee, that it would be a considerable advantage to Ireland that there should be a large infusion of peasant proprietors?

I have held that opinion for 25 years, and I have not varied it in the lesst. 4086. You have seen no reason to change it?

Not the least.

4087. Will you let me ask you a question which does not go to the substance
of that matter; how far down would you go in your view; would you desire
to see occupiers of land, however small, become proprietors of their boldings,
or would you stop at some point?

1 do not think; if the principle of purchase be adopted, that you could stop at

(0.1.) 3 B 3

Continued.

are

any particular point; I do not see my way to any hard and fast line; I quite see the great objections to very small holdings, but I do not see my way to avoid those objections.

4088. Would you think it desirable or not that any department which had the arrangement of those matters should have a discretion which should enable them to refuse to assist in making proprietors of very small holdings owners, if they thought the circumstances of the case were such as that they ought to refuse such assistance?

I think whatever body that duty was imposed upon ought to have power to refuse in any case where they thought the State was not sufficiently secured, or where the circumstances of the holding did not justify the purchase.

408u. I quite understand that it would be a natural provision to make that the money of the State should not be advanced where the security was not sufficient, but my question went beyond that. Supposing the opinion was that in a particular neighbourhood the occupiers were so poor or impoverished or unfitted for becoming owners, on that ground alone would you give a discretion to the department to refuse to assist? I should on the ground of public policy.

4000. If you were asked the reason why the clauses of the Act of 1881 have not been more largely acted upon in the way of producing peasant proprietors,

what reason would you assign? I think the reasons lie very much in the state of the country at present, and in the expectation of better things.

4001. Better for whom?

I think the market is in favour of the buyer, and he thinks so. 4002. Marquess of Salisbury. He anticipates that the estates will lose in

value, you mean? I think he anticipates he will obtain more favourable terms than are offered

under the Act of 1881. 4003. Through legislation, or through consent of the landlord?

Through legislation.

4094. You think they look to future legislation? I think they do.

4005. Chairman.] Do you mean better as regards the terms which will enable them to pay for their holdings, or more favourable terms in the sense of getting the land at a less figure? I think they look to both causes operating.

4096. You mean they expect by future legislation that land will be deteriorated in value?

No, not by future legislation, but by existing legislation: they anticipate that land will be fixed at a rate which will be lower than the rate at which they can now deal, except where they have got their judicial rent, which is of course exceptional at present in Ireland. They also, I think, have been led to hope that they will get more favourable terms than the terms offered.

4007. Viscount Hutchinson, You think they look to that? I do.

4098. Chairman.] You mean easier terms for buying? I mean easier terms for buying,

4099. Viscount Hutchinson.] They think that in a market, where there is very little competition, prices are likely to be low? Naturally; they are masters of the market, as they are the sole possible buyers at the present time.

4100. And they are likely to remain so, are they not?

It is dangerous to prophecy, but it looks very like it. 4101. Chairman.] But do you consider upon the present arrangements that 25th April 1882.] Mr. Vzanon.

are made by the Act of 1881, enabling tenants to buy, that there is any probability of their becoming buyers upon those terms?

They will not become buyers on the terms of the present Act on any large

scale.

4102. Would it be possible for them under the present arrangements to

become buyers without being under a heavier yearly charge than their present rent?

No, not at present; at the present rates of colculation of the value of the monors as advanced by the State it is clear that they could not. It is quite the possible that on a largely reduced reutal they might come in on terms which would be lower than twice original rent; that is quite possible, because I presume any one buying for the State would look not to the rent but to the value.

4103. With regard to the security you mean?

With regard to the security it would be a duty not to look to the rent, but to look to the value.

Ano. One of the difficulties that has been pointed out to us in the way of

4104. One of the difficulties that has been pointed out to us in the way or sales being made at present is a difficulty of a different kind, that is, the position of tenants for life of such property in Ireland as is settled?

There is no doubt that that is a very obvious difficulty.

110cc is no under that his a very division standard.

4105. You mean the position in which the tenant for life would stand to the money that was paid for the farm?

momey that was paid for the narm?

Of course he would be bound to invest it according to the trusts of the estate,
and that means of course a very narrow limit of investment.

4106. Before coming to that, another difficulty has been pointed out in the clause in the Act of Parliament, namely, that the proceeding has to be managed through an application to the Court of Chancery, and the investment of the money there, and the costs have to be raid by soutchorf for all that?

Naturally that would have a very deterrent effect; if you are to pay a large sum of money for investing the proceeds of a sale at 3 per cent., it is quite clear that the landford had better stay as he is.

4107. Supposing the money not invested at 3 per cent., but upon such securities as trustees are sometimes authorised to invest it upon securities that would pay very nearly 4 per cent., would the tenant for life selling at, say, 20 years purchase be much of a loser by an investment there?

years purchase be much of a faser by an investment there's Clearly; if he sold at 20 years' purchase, and invested at 4 per cent, he would be a loser by exactly 1 per cent.

4108. Marquess of Salksbury.] That is assuming that there are no expenses?

I mean the mere investment.

4109. Chairman.] You take the rent as an absolute sum, and set it against the income of the security?

That would depend upon what 20 years' purchase means. Does it mean 20 years' purchase of the net, or gross? Of course, if it is 20 years' purchase of the nett, it is quite clear that the indiord is bound to lose upon the transaction.

4110. I mean to say 20 years' purchase, or whatever period it may be, of the rent which the tenant pays ? Vex

4111. From that the tenant for life, I suppose, would have to deduct agency and transition, and a certain sum for the greater risk of bad sessons, and so on? If your Lordship's observations apply to the gross rent, I think the landlord would be a gainer if he got 4 per cent. upon the proceeds.

4112. Another difficulty has been pointed out to us in the way of sales, and which is a more serious one, the question of head rents; have you found that to be a difficulty?

(0.1.)

3 3 4

Yes;

25th April 1882.] Mr. VERNON. [Continued.

Yes, under the Act of 1881 a power is given to the Court to give indemnity as against those head rents, but that is a matter of great difficulty. A power is given to the Court to saddle the Treasury directly with an indemnity against charges affecting land sold.

4113. How would that work; I do not understand it, I am bound to say, and do not know what it means?

The section of the Act has never been acted upon.

4114. Do you mean that you, the Commissioners, are to give your own indemnity?

No, we give the indemmity of a much better body, that is of the Treasury.

4115. Will the Treasury, do you think, agree to that?

It is in the Act of 1881.

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4116. Do you mean an imdemnity against the head rent?

An in-lemitty against certain charges. The 26th section, at the end of the Shabesetion, asys, "The Land Commission may, if they are satisfied with the indemnity or terms offered or given by the vendor, purchase for the purposes of this section an estate subject to incumbrances." I think you will find it there.

4117. I do not in the least dispute its being there?

I mean that it is a legal matter, and therefore I am very likely to be wrong

about it.
4118. It is prefaced by this; if you are satisfied with the indemnity or terms

offered or given by the vendor?

Quite so; the vendor can indemnify us upon other lands. Then we can indemnify our purchaser. That is a remarkable power, and I gather that that would apply to the head rent if the vendor chose to exercise his power with the

concurrence of the Court.

4119. At the same time that would require that the vendor had some other property on which he could east the rent?

property on which he could cast the rent? Clearly. 4120. If he were selling the whole of his property it would have no applica-

tion?

It must be something tangible; he must have a tangible residue which he is

able to charge.

4121. But spart from that power, which possibly would require a good deal

of conveyancing and a good deal of expense if it were to be exercised, has anything occurred to you as to the course that might be taken with head rents? I think we might be nutherised to purchase them, and extinguish them on a basis to be laid down. Most of those rents have been converted under the

Leasehold Renewal Conversion Act, and I think those could be purchased if a scale could be laid down on which the landlord could be fairly obliged to sell.

4122. Do you remember what the basis has been under which the head rents have been dealt with?

The Church Act does not allow them to be sold under 25 years' purchase. That is the minimum, but that has been found very high.

4123. Viscount Hutchinson.] Is not that about the average price of head rents in Ireland during the last 25 years?

I do not think it would be so now, unless the head reat carried something more than the shoulter money. If the head rent, as is very offen the case, carried minerals or game, the 25 years purchase would be by no means too high, but if it is the mere money rent, I should doubt whether the 25 years would be had. The proof is that a very large propertion of the church reats have not been sold. They have not been bought by the parties who pay them

4124. They offered a pre-emption of 25 years' purchase, I believe? Yes, they had no power to offer them at less.

4125. Have

Continued.

25th April 1882.] Mr. VERNON.

4125. Have they not realised 25 years' purchase in the open market? Several of them have, but a great many of them have not been sold at all : the landowners have refused to take them.

4126. But then they were offered to the public, I suppose?

The public has been extremely abstemious upon the point. I do not think

anybody has hought. 4127. Chairman.] What is your view with regard to apportioning the head

rent. Suppose the case of a landlord selling an estate to his tenants, on the whole of which there was a head rent, what would you thick of a plan of apportioning the head rent? You cannot apportion it as against the landlord. Of course you could

apportion it as they do in the Landed Estates Court; you could indemnify one lot by another; however, that is a question I really am not competent to answer. How you could fairly indemnify a purchase against the landlord, whose security overrides the whole of the property sold, I do not know.

4128. No doubt, without compensating him in some way, that is so : I colv want to have your opinion upon the subject. May it not he possible to apportion it, paying the owner something for the diminution of value of the apportioned head rent as compared with the whole head rent?

No doubt, if we were prepared to go far enough. Suppose him to be a tenant for life, that he should receive that sum of money which, invested under the trusts, would produce the same income as the head rents do.

4129. That would be a purchase of the whole?

I mean the purchase of a portion; perhaps I misunderstood your Lordships.

4130. There might be two courses to be taken, one would be to buy the head rent out and out, at 25 years' purchase. That, of course, would require a very large sum to be paid out of the purchase money, and leave perhaps not very much remaining. But another course is possible, which is to apportion the head rent over all the holdings, and inasmuch as an upportioned and divided head rent is not so valuable as an undivided head rent, to make a payment to the owner of the head rent which would repay the diminution in value

of the portion of the rent as compared with the whole rent? No doubt that would be quite possible. I think very few proprietors would like to have their head rents apportlooed in that way. It would make them

very much more difficult to collect. 4131. But nothing else has occurred to you as possible to he dooe, has it?

Not in that direction, beyond purchasing them up. If we had the power of purchasing them up, I think it would be very desirable.

4132. A compulsory power? I think not : I think it should be an enabling power. I do not think a compulsory power would be a just thing toward the owner-

4133. An owner in fee simple would not require any power? An owner in fee simple would not have any difficulty, prohably, if you gave

him a fair price, but the limited owner would require a statutory power. 4134. What effect would either a statutory enactment or a statutory power have which would enable the Court to apportion the rent as between the tenaots, giving cross-rights to one against the other, in case a share was levied from any

particular holding? I am afraid that would involve great litigation amongst the parties.

4135. You think that practically it would not work well? I should be afraid of it. Of course it would work out equitably, but I think it would work out in a great deal of litigation.

(0.1.)3 C 4136. Now 25th April 1882.] Mr. Vernon. [Continued.

4136. Now, putting aside the question of the tenants for life and the head rents, are there any amendments which you would suggest in the present arrangements, which, according to your judgment, would incline the tenants

more than at present to purchase their holdings?

I should say an enlargement of the term for redemption in a two-fold way, of course, by a reduction of interest and extension of time. I think both would

course, by a reduction of interest and extension of time. I think both would have to be dealt with.

4137. To take the case of a tenant who has had a judicial rent fixed, suppose an arrangement were put before him by which he might become a purchaser.

without increasing the rent which he is to pay, or somewhat diminishing that rent, do you think that, practically, that would bring in many of the tenents to hecome purchasers?

I think it would, but I do not think any calculation of the kind should

I think it would, but I do not think any calculation of the kind should proceed upon the judicial rent.

4138. What is your reason for that?

I think it would have a two-fold effect. In the first place, I think it would make the Act unworkable; every tenant who wanted to purchase would serve an originating notice, and add very much to the present difficulty.

4/139. You misunderstood the question, if you supposed that I was putting to you the idea that as a preliminary to purchase there must be a judicial rent fixed?

That is what I understood your Lordship to say.

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4140. I do not mean that at all, but to take the case of a person who has had a judicial rent fixed in order that I might have your opinion afterwards upon the case of those who have not bad a judicial rent fixed; you understand the difference?

Perfectly.

4141. Taking the case of a mun who has got a judicial rent fixed, and supposing that an arrangement was made by which he would not have to pay more than his judicial rent, would be be inclined, do you think, to become the pur-

T think so. Of course, if he is at all an intelligent man, he would calculate that in becoming a purchaser he becomes liable to certain burdens that he is not now liable to.

No.

4142. In what I said I meant to suggest, but perhaps I did not make it clear, that the aggregate of the psyment he would have to make, both as regards rent and the increase of exation that would fall upon him?

and the increase of texation that would fall upon him?

I think, no doubt, he would be inclined in such a case to become the purchaser.

4143. Speaking of the average over Ireland, can you tell me what the increase of taxation per centem would be to an owner as compared with a tenant?

I do not think I can answer that with any degree of accuracy.

4144. Would it be 10 per cent.?

I do not think I can answer that,

4145. It would be, I suppose, half the poor rate, and in case the tenancies created before a certain date, bulf the county cres?

Yes, the poor rate varies so very much that it would be almost impossible to say how much it would be. 4146. It has been stated here, I do not know whether you agree with it, that

a rough average may be made of 10 per cent, for the addition that the proprietor would pay, as compared with the tenant? I should be inclined to say that that would rather he under the figure. I should take the county cess at the average. The county rate in Ireland I should

4147. Half

take at an average of about 1 s. 10 d. to 2 s in the £.

25th April 1882.] Mr. Vernon.

4147. Half of that would be 1 s.? That would be nearly 5 per cent. Then the poor rate in some parts of Ire-

land is very much larger than in others.

4148. Yes, but the question is the average?

Extending it all over Ireland, I suppose it would not be much over 10 per cent.; that would be taking the poor rate at 2 s. all round.

4149. Do you think if Parliament were to have in view the conversion of a considerable number of occupiers into owners, it would be desirable to wait for the fixing of a judicial rent?

Certainly not.

4150. I suppose it would take a considerable time?

It would take a very long time, and I think it might be open to very serious objections in every way.

4151. It might force tenants who had no desire to go into Cenrt to do so, might it not? Precisely.

4152. And also, I suppose, it is right to say that one element which might lead landlord and tenant to buy and sell, would be to escape the uncertainty and trouble and vexation of going into Court?

Precisely. There is another element; I think it would make the fixing of a judicial rent a matter of such vital importance, that it might be fought over a great deal more than it is at present.

4153. You think the higher powers would come to have an interest in fixing a judicial rent?

It might possibly so happen: I think it would be very objectionable.

4154. Lord Tyrone.] It would be quite possible for the tenant who wished to huy, if he had not had a judicial rent fixed, to agree with his landlord as to a statutory term out of Court, would it not?

Quite so.

4155. Therefore it would not be necessary, if you went on that principle, to

bring him into Court?

No, I think it most desirable that any sale of the kind should be made before going into Court, and quite irrespective of that portion of the Act of Parliament which relates to the fixing of a fair rout.

Adjourned to To-morrow, at Twelve o'clock.

(0.1.)

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Die Mercurii, 26° Aprilis, 1882.

LORDS PRESENT:

Duke of Nobpolk.
Duke of Marlborough.
Marquess of Salibbory.
Earl of Pembroke and Montgonery.
Earl Standard.

Earl Cairns.
Viscount Hutchinson.
Lord Tyrone.
Lord Kenry.
Lord Penzance.
Lord Brabourns.

THE EARL CAIRNS, IN THE CHAIR.

Mr. JOHN EDWARD VERNON, is re-called; and further Examined, as follows:

4156. Chairman.] You hand io some statistics from the Land Sales Department, I believe?

I merely brought that document for my own guidance in the event of your Lordship's wishing to know what we had done.

4157. May I take it that that is a correct statement so far as you know? I should say perfectly correct. I have not tested it by comparison with the figures myself, but I took it from the office.

4158. Would the amount which is here set down as the purchase money as agreed upon, include the costs?

No, the costs would be kept separate.

4150. We were speaking of the purchase clauses when the Committee

adjourned yesterday." Allow me to sak you, supposing that the payment of the purchase money were made the subject in it entirity of an advance, and spread over a larger number of years, whatever the number may be, say, 45c or 50; 1s it your opinion that it is an operation which could be safely control by the State, and in which he State. In this case, the same of the safely control with very confidential risk; I man, supposing it to be simply an operation attended with very considerable risk; I man, supposing it to be simply an operation at

with very considerable risk; I mean, supposing it to be simply an operation as between the tenant and the State. 4:60. The State would have the security, not merely of what is called the

4160. The State would have the security, not merely of what is called the landlords' interest in the land, but also of the tenants' interest?

No doubt.

4461. That would be in all cases a substantial, and, in many cases, a very considerable addition to the purchase money that would be paid to the proprietor, would it not?

What is will

In some parts of Ireland it would be at present very large. What it will develope into, in other parts of Ireland, we have not yet the means of gauging; I mean that where the principle of purchase has not heen in operation, we have no actual figures to guide us as to what the value of that interest might be

4162. Some cases have been mentioned to the Committee with regard to some parts of Ireland where tenant right, as it is called, has not here add prior to this Act, and it has here stated to us that very considerable prices have been paid in the instances that have been mentioned?

I should expect that would be the case.

(0.1.) 3 C 3

4163. Have

4163. Have any come under your notice?

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4164. We have beard of some being sold at a price as high as 17 years' purchase, and some even above that? I should not have expected that in the south of Ireland; I should have expected that in the north.

4165, Mr. Scott, Lord Leconfield's agent, mentioned, I think two cases of fully amount?

I should fancy that that may in some degree arise from the fact that Lord

Leconfield's estate (I have no knowledge upon the subject, and only speak now from hearsay) is a very moderately let property, and the tecants have always been very greatly well treated by him.

4166. I suppose you would consider that there is a very marked difference as regards paying a sum in the shape of rent every year, and paying that which is an instalment of purchase money; a difference of this kind, that when rent is paid, we will say, for this year, the tenant begins again and pays it for next year, just as if nothing had happened; whereas if he pays one-fiftieth of the purchase money this year, he thereby becomes the proprietor of one-fiftieth of the property, and has never to pay that again?

Clearly; it adds a solid interest as regards the repayment of the principal.

4167. So that every year that passed over the security of the State would be increasing ?

Necessarily, and increasing not alone in money, but in inclination to pay.

4168. So that if the transaction could be tided over successfully, we will say, for 10 years, it would become an extremely substantial security? If you get over the first 10 years, I think the tenant would then have acquired a solid interest in his holding, which he would not easily relinquish.

416Q. I am not sure that it has been made hefore the Committee, but a suggestion has been made that the transaction might be so arranged as that the payments should be somewhat in the nature of a coupon, or a piece of printed paper, which should indicate that if any of those payments were anticipated they would be discounted at whatever the current rate of the advance was, and the tenant would at any time know that he might have an advantage in making. we will say, this year, at a much less sum, a payment that would otherwise

stand at a higher figure in a future year. Do you think that that would be tempting to any tensats that had saved money? It would involve a very complicated account, and be very difficult to work, I think. I should prefer allowing him to pay the sum of money in globe, or in part reduction of the principal and interest, not by coupons but upon application; and that there should be a scale fixed on which he could pay off any proportion that he liked.

4170. So that they could, on application, discount any proportion, you mean?

Yes; and that they should be allowed to fall back upon that afterwards, in the event of pressure upon them, as a payment to the State. I do not think that it could be worked by coupon; at all events, I do not see at present how it could he so worked.

4171. I am not sure that I ought to have used the expression "coupons." I wished to indicate merely that, in some way, you should keep distinctly before the mind of the tenant the fact that if he paid by way of anticipation he would pay a smaller sum?

I think that that would be most desirable, but I think that he should retain a power of negotiating that with the State afterwards, if I may use that expression; that is, pleading it in har to an application for rent at a moment when

4172. It

he was not able to pay a later instalment.

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28th April 1882.] Mr. VERNON. Continued.

4172. It might be a reserve against a rainy day?

Precisely; it would give him an inducement to save money. It would give him an inducement even temporarily to invest his money. 4173. It would be, in fact, as good an investment as he could find at any

time in one of the country banks, would it not? Better. Of course I need not point out to your Lordship that that would be attended with an enormous amount of book-keeping and work.

4174. Very likely it would. I suppose you agree that if the transaction were to be undertaken at all by the State it would be like the management of a

certain amount of public deht? Clearly; it would be in practice like a branch of the Treasury.

4175. It has been suggested that a mode of adding to the security of the State, and, to a certain extent, breaking the collision between the State and the tenants, might be brought about if a certain area of a poor law upion, for example, were made responsible to the State for any overdue advances, or that the State might call upon that area to collect overdue advances from the persons who were indebted to the State, they having in return the power of proceeding summarily against those persons and their holdings; and it has been said that that would enlist, on the side of order and punctuality of payment, the solvent people within the area, and especially those who themselves had already paid

up their instalment; what is your opinion of that? I think that that might work, but not precisely in that way. I do not think

that any Union should be called upon to guarantee any loss in respect of any case which they have not specially guaranteed. I do not think a general guarantee from the Union would be the right thing. I do not think a Union voting itself contributory (if I may use the term: I am sure the word is familiar to your Lordship) would be fuir. I think no advance should be made upon that footing, save in a special case, which special case shall in every instance have received the consideration of those who are making the area of the Union liable.

4170. Let me quite understand you. Do you mean to say that you would confine the operation to cases where the Union indicated its willingness to stand security? Quite so.

4177. But might not that he open to the observation that in the first place it would be a very cumbrous operation to bring the mind of the Union to determine whether it would or would not guarantee a particular case; and that in the next place it would leave open considerably the door to jobbery?

That is a door which you would find it very difficult to shut in any case on an operation of that kind.

4178. But it might not be advisable to open it wider than is necessary? You have to deal in the first place with the very great difficulty in this atter. As I understand your Lordship to propose that the Union should be called upon to collect---

4179. I do not propose anything; I merely said that it had been suggested? To sell or to realise the property, your Lordship means ?

4180. Yes, that is the proposal? I do not think they could be made to do that, and I do not think they would do it, looking at the position of the boards of guardians as they are and as they are likely to he. That would not be my idea of working it.

4181. Does it occur to you that any other area is provided with machinery

that could work it better, a barony, for instance? No, I think it ought to be worked differently. I think the Union should not be called upon to guarantee in globo. I think the guarantee, if given, should he a special guarantee; and I think the State should take upon itself the duty of collecting the money, with the power of coming down upon the Union for any 3 0 4

(0.1.)

26th April 1882.7 Mr. VERNON. [Continued.

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loss which the State might sustain. That is the form in which I think it might

work best.

4182. Viscount Hutchinson. But only in special cases, you think? I think it would be scarcely fair to ask the Union to pay that which they

have not guaranteed specially. 4183. So that the process in that view would practically he this: that in every

case of sale where the security of the Union was thought necessary, first of all you would have to have a dehate by the board of guardians as to whether they would accept the responsibility for the holding in question or not?

I think if you impose the liability upon them you ought to give them the opportunity of selecting the parties for whom they were going to give security. I think it would be a strong measure to take one of the Poor Law Unions and to induce them to become guaranters for the whole Union. I think it might end in the property of the country being absorbed altogether.

4184. Chairman.] With regard to your suggestion that the Union should not be the body to put in force the extreme measure of process, but that the Government should do that, and then come upon the Union for the deficiency, is not that open to the objection that all Governments would be tempted rather to take the thing easily and say, "We have tried to collect this and cannot do it, and we will now take what is a much easier hody to deal with, and call upon the Union to pay us?" Of course it would be.

4185. There is a process of law in the case of principal and surety which is called "discussing the principal," which means turning him inside out before you come on the surety; but the Government might not be disposed to "discuss" the debtor?

I think the Government could very easily take such powers as would enable them to come down upon the guarantor when they had the proof from the Commission that the security was exhausted.

4186. They might have plenty of power, but they might not be disposed to exercise it?

I think they would be more disposed to exercise it than any board of guardians I have ever met with.

4187. Then the alternative in the case of the board of guardians would be, if they did not exercise the power, to pay the money? It would come hack to the same thing. If they do not do it, what are you to do; you have to dissolve the Union; you have to appoint vice-guardians and the vice-guardians would stand in loce of the other guardians, and at the back of all, it is the Government still. We will suppose for one moment that the Union was contumacious, and I can almost believe in the possibility of that.

4188. Has such a thing ever happened? As some of them are formed now, I think it is quite possible that it might

happen. Supposing they refuse to collect, I believe the only mode that the Government would have would be to dissolve the Union; then appoint viceguardians, and those vice guardians are practically the officers of the State for the collection of that money. I think you must come back to the power of the State. If the State lends the money, and you make the Union hable for the loss, that must be the result, because in very many cases you may be able to collect part, and not the whole.

4189. Then to take your course, you make the Union liable for the defi-ciency; then would you leave the person really in fault, that is the original dehtor, in possession of his property, another party having paid the instal-

I should assume that the State would have sold him up before it did that-4190. You mean making it a sine quá non, or a condition precedent to going

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against the Union, that the State should actually have sold up the debtor Printed image digitised by the University of Southmipton Library Digitisation Unit

96th April 1882,7

Mr. VERNON. Continued.

Yes; that they should have exhausted the security. I think that is the principle of all guarantees.

4101. It is not the principle of our law with regard to guarantees. Of course there is a great deal to be said for it, as a moral rule. In your evidence before Mr. Shaw Lefevre's Committee you made a suggestion upon another subject, if I remember rightly, which I should like to ask you something about. One of the objections to a system which would crease a number of small proprietors in Ireland, by the aid of the State, is this: it is said that whereas absence landlords in Ireland are a great evil, the State, by a system of this kind, would become a great absentee landlord for 30, 40, or 50 years, and would be drawing guay out of Ireland these instalments, which either would or might amount to a considerable sum of money; that those instalments would be drawn away into the English treasury out of that country, and that that would be an exaggerated form of the absentee evil. You made a suggestion, if I remember rightly, as to the mode of creating or issuing stock which might be localised in its character. in order to meet that evil; would you explain to the Committee what the idea of your suggestion was? The idea I proceeded upon was this: there are in Ireland, as appears by the

returns, somewhere about 30,000,000 l. held on deposit.

4192. In local banks, you mean?

In local banks. I do not for one moment fall into the error of believing, as many people do, that that is entirely the property of the farmers. I know the contrary to be the fact, but still they do hold a very large proportion of it, and the average rate they have received for the last seven years would not exceed 11 per cent. It seems to me that there is an element of wealth there which might be tapped and applied to the purposes of the Land Commission. Of course the only way in which it would be tapped would be by offering them terms in advance of the terms they are now receiving. That would, of course, very soon I think draw n considerable sum of money, but it must be done in small sums. I need not point out to your Lordship that if it were done in large sums it would not meet the question at all, but I think if done in small sums it would gradually attract the saviogs of the people.

4193. How would you propose that that should be done?

The Government should raise the money, possibly at 3 per cent.; whether they could float a 2½ per ceut. stock at 90, I do not know; I suppose they could, and raise the money in that way amongst the people.

4194. I want to know how you would, if I use the correct expression, localise the stock. Suppose it was a public stock that it suited many people to take up, it might be taken up in England, might it not?

No, if it were held in small bonds it would be so inconvenient that it would not have any advantage over consols, and it would be very much more inconvenicat to a large holder. One resson of making such a loan in small sums would be this: suppose for one moment it was made in large sums, that is 500l. or so, it would then simply supersede Exchequer Bills, and he used in all the clearing transactions. That, undeniably, would act reach the object had in view, and therefore I should issue it is small sums. Boads in small sums are always incoovenient to large holders and will not be held by them.

4195. Lord Brabourne. Is there any means of ascertaining the class from whom comes the 30,000,000 L of deposits?

No, there are no public means.

(0.1.)

4106. It is only speculation? My experience has been derived as a banker chiefly.

4197. Chairman.] I suppose the banks know perfectly well? I do not think they have it divided into classes.

4198. I do not mean to say that they have it is pounds, shillings, and peace? They could get it, of course. 2 D

4199. Lord

26th April 1882.7 [Continued. arna, Lord Brabourse. Is there any means of knowing whether it is in

large or small sums? No, there are no public details at all; the sources of information are perfectly private.

1200. Still the figures have been quoted in Parliament, the fact has been stated by the Prime Minister of 30,000,000 l. being the amount on deposit, and that there has been a large increase in the last 20 or 30 years, as you are aware?

No doubt that is so. The desposits are there, but it is a question as to the class to which those denosits belong,

4201. That we cauuot ascertain? That we cannot except in

4202. You do not think we can found any argument upon that, as to the increase of prosperity? 1 think more or less it indicates a redundancy of money seeking investment.

4203. And as the principal employment of Ireland is agricultural, I suppose we may gather from that that agriculture has not been so entirely ruined as some would have us believe?

I do not think agriculture in Ireland has been absolutely ruined, but I believe it has suffered very severely, as I believe it has suffered very severely in Eng-

land 4204. Chairman. To pursue you observations about these bonds, is it your idea that the stock would be issued in the shape of debeutures with comous

Clearly : very much in the form of the American Bonds, which you can either register or pass from band to hand; they are better passed from hand to band.

4005. The principal do you mean, or merely the coupon? I should make interest and principal payable to bearer if they chose to bave

206. Transferable by delivery ?

Transferable by delivery, unless they chose to register. I would give them the option of registering; that I believe they have in all bonds now. 4207. Would you propose to make the coupons payable only in Ireland?

I should make them payable only in Ireland.

4208. At what bank; any bank would pay them, I suppose? Any bank would discount them.

4200. I suppose a country bank would be as glad to take the coupon as it would a cheque?

Exactly, they would be primarily payable at whatever bank held the Government account, because of course the interest must be found there; but they would be cashed at every local bank, and would come in the next morning in the exchanges. 4210. What would the banks of issue say to that?

They would not like it.

4211. Lord Pensance.] You would not propose that the rate of interest should be more favourable than upon consols?

Quite the contrary; I should like to have it rather under consols if anything. If it exceeded consols it would be absorbed at once.

4212. However small? Yes, however small; it would be absorbed immediately.

4213. Chairman.] If a stock of that kind could be floated and held in Ireland the result would be to counteract the evil I mentioned, would it not? Very much so.

4214. What do you consider the effect of bonds of that kind would be upon

1 think

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26th April 1882.] Mr. VERNON Continued.

I think the effect would be very favourable to the stability of the Government, and the peace and order of the country.

4215. It would enlist the hody of the people, the holders of those securities, on the side of order?

Very strongly, and more strongly still perhaps, when they came to connect them with the primary security on which they would be charged, viz. the land itself, that is, the lend sold to the occupiers.

42 16. Let me ask you with regard to the proceedings of your commission, ao

you go at any stated times into the country for the purpose of hearing aspenls. or only from time to time as you find it desirable? From time to time as we are able to go. We have a large number of appeals

to hear in the Dublin district. For instance, on Monday next we propose to go to Kerry, we shall be there a tortnight, and we then go to Cork; from thence on to Waterford and Kilkenny, and then to Galway; from the 1st May for the next two months, I do not think we shall be in Dublin, save for the absolute purpose of having one day in the week, for the hearing of motions "of course," which your Lordship will understand.

4217. When you are in Dublin I suppose there is a great deal of contentious business to be disposed of in the Court? Yes, there are a great many applications. Now, it has very much come into

We have been bearing appeals lately. appeals.

4218. How many days in the week do you generally sit ? Every day ; from 11 to often 6 o'clock.

4210. Supposing that an effort were to be made to council a certain number of tenants into proprietors in Ireland, do you consider that it would be desirable that some arrangement should be made to simplify the record of the title, and the subsequent dealing with it?

I think it would be judispensable; we have two difficulties; the first is the great difficulty, the second is the minor difficulty. The first is to clear the titles, the second is to keep them clear, and, of course, I need not point out to your Lordships that unless we have an effective record we cannot keep them clear.

4220. But I suppose if you create, or help to create, a small proprietor in a country part of Ireland, it is an idle thing to suppose that he can come up to Dublin and consult Dublin lawyers, and attend at Dublin offices about a transfer of his holding :

I think that might be worked in this way: when a sale is completed, and when the conveyance is taken by the tenant, I think it should be recorded in Dublin, but I think there exist in the country the elements of a very simple machinery for laving a copy record, if I may so call it.

4421. A duplicate record you mean ?

Yes, a duplicate record, ours being the primary record. The Clerk of the Crown and Peace is bound to have an office in every town of Ireland, and in a good Court-house, where he could keep his muniments, he might have a copy of those documents.

4222. In other words, there would be a head registry and branch registries? I think they would be both necessary. I think it would be impossible to expect a small tenant of 20 or 30 acres of ground to send up to have his sale registered.

4223. You mean that you might have on the one band some central spot where dealings with land all over Ireland could be investigated, and on the

other hand local places of transfer for the convenience of the holder? Guite so; I think both would be required. I may say there is just one difficulty about a record of title which I think probably could be amended by statute, and it is this, when a title is recorded, a man gets a certificate; he cannot negotiate that or deposit it in any way. That has been held to be a great objec-

tion. 4224. Do you mean that the law says the deposit of it will create no security? It (0.1.) 3 D 2

Mr. VERNON. 28th April 1883. Continued.

It is no deposit within the meaning of a "deposit of deeds." That has been so held by bankers, and they will not take those certificates.

4225. I suppose that is not from the circumstance that it does not create a right, but that that right may be displaced by some person going and registering

something before it Precisely. I speak under your Lordship's correction when I say that by recent decisions a deposit of deeds properly made without writings takes precedence of

a morngage registered at a later date, than the making of the deposit.

4226. I am afraid we get into very rocky navigation there? I merely point out to your Lordship the difficulty that does arise, and that

keeps men from utilising those certificates. It may be very difficult for a man

with a certificate of holding to walk into a bank and raise 100 l. on it; he cannot do that because they will not lend on it. 4227. Lord Penzence.] You think that that ought to be done if it could be

done with safety? Yes, first to the mortgagee, and secondly to the lender; but that is a legal detail that I could secreely give an opinion upon; I merely point out the difficulty.

4228. Chairman.] I suppose there is no doubt it would be an enormous advantage in any of those sales if the title has not already been passed by the

Landed Estates Court, if a clear title could be given ? I think it would be indispensable that it should be done. A great number of

the titles in Ireland are very clear and very modern titles.

4229. A great number have been cleared through the Landed Estates Court, have they not.

Yes; as to those which have not been cleared I think we should require the assistance of the Landed Estates Court. Some of those titles that have come before me require really very little, merely searches from the date of the con-veyance. The Landed Estates Court conveyance leaves the statement of title short.

4230. One of those transactions of which we have been speaking, that is, an advance by the State on the occasion of the purchase by a tenant of the holding, would involve both a mortgage and a sale, would it not?

4231. What is done about the stamp duty; is there both a mortgage stamp and a sales stamp? I fancy not, but I am not clear about that.

4232. Could it be avoided except by special legislation upon the subject?
I do not see why it might not be. The difficulty of course is this, the teanst holds one deed and the Commission holds the other; therefore two de

4233. However, whatever may he the rule or practice now, have you considered at all the question of whether as a matter of policy (if it be a matter of policy to assist in the creation of a number of proprietors) the State might not very rightly for that end put in abeyance altogether the question of stamps? I think that is a mere question of revenue. It must give way to a great

necessity, but apart from that I think there is a practical injustice in the double etamp. 4234. It would be very unjust to have a double stamp you think?

It would be very unfair I think.

4235. Still, as between man and man there undouhtedly would be a double stamp on a transaction of that kind, would there not? No doubt, but it might be very easy to exempt one of the deeds as a statutable

mortgage, the conveyance carrying its own stamp. 4230. With reference to the proceedings for settling a judicial rent, I want to read to you a statement contained in a petition to both Houses of Parliament, in which the petitioners, being owners of land in Ireland, and others living in Ireland,

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28th April 1882.7 Mr. VERNON. Continued.

or interested in it, say, "Your petitioners humbly pray that the principles adopted by the the Land Commissioners in the assessment of 'fair rents' may as soon as possible be made public. Secondly, the petitioners respectfully submit that while the operation of the Land Act of 1881 is necessarily of an arbitrary character, the inconvenience arising from such inherent defect would he minimised by a declaration of the principles adopted in its administration. Thirdly, that the speedy and ultimate result of such a declaration would be Intrody, that the speculy and unimate result of such a declaration would be great acceleration in the application of the Act, lessening the number of appeals, multiplying the cases settled out of Court." Now a considerable body of evidence his been brought before the Committee by witnesses who virtually take that view. They complain very much of their entire ignorance as to what principles the Sub-Commissioners proceed upon, and they fancy to themselves at all events that great advantage would arise, and that great delay and expense will he saved if other persons who are lookers on could know what the minciples were that they might act upon them; what is your view about that; is there any difficulty in ascertaining the principles? There is almost an impossibility in laying them down in a definite line.

4227. I suppose it would be impossible to produce accurately a mathematical

definition; you may say that no definition is accurate; still would there be any difficulty in giving a popular explanation of what the principles are upon which the Suli-Commissioners proceed? That would involve a definition which I think would be very undesirable on

many grounds, namely, as to what is the description and definition of the improvements. 4238. I do not suggest that?

That must come into any ruling on the finding of fair rent, I think.

4239. That, perhaps, might be open to question; is not that rather a separate matter? You first start with finding out what is a fair rent; then you may

have something to say, no doubt, in order to complete the transaction, about the improvements afterwards? That is not the way that I should start about it; I should first find the gross

rent, and then find the deductions. 4240. I am not sure that we do not mean the same thing. When I spoke of

the fair rest, I meant the rest that would be paid if there was no question about improvements at all? I understood your Lordship to mean by fair rent the judicial rent.

42.11. I used a wrong term. I meant to say in order to get at the judicial rent there are two processes to be gone through apparently, at least so some of the witnesses say, namely, that you first ascertain what the rent would be if there were no question raised about the improvements at all, and then if there is a right on the part of the tenant in respect of improvements, you ascertain what that right is, and make that a subject of deduction?

There can scarcely be any rule in the mind of most valuators. A valuator would go forth, and he would say, that looking to the circumstances of the districts he thinks that such and such a farm, with its equipment, whatever it may be, if in the hand of the landlord to-morrow is worth so much. Then he would, apart from that, give us a schedule or return of things which are tenants' improvements under the different views of what the tenants' improvement are.

4742. Could not the Sub-Commissioners do that? I do not think they could do it on paper.

4243. Marquess of Salisbury.] Do I understand you to imply by that that a fair rent is what the holding would be worth in the hands of the landlord, minus the value of the improvement? That is not my idea. My idea of a fair rent, was fair reut as used in the

Act of Parliament, which means the payable rent after all deductions. 4244. Ch. irwan. You use the word fair rent as equivalent to judicial rent?

Quite so. 4245. That (0.1.)3 D 3

26th April [882.] Mr. Vennon. Continued

4345. That is the accomplished calculation:
The accomplished calculation.

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4.24; We were trying to look at it in its elements, and you, as I understand, you, asy that a competent stiffing leader round go through the two processes, he would say what he thought the farm would properly let for, if entirely such hands of the landled, and proceeding out from him for the first fines; and then on the other hand, if improvements that have been made by the tenant, what allowance should be made in reperfect of them, and the would set the one against

on the other hand, it improvements that have need make by the tenant, what allowance should be made in respect of them, and lie would set the one against the other, and the result would be the judicial rent?

We make him give us those items, and then those items, and then those items are subject to cyclesce before us upon appeal, and subject

to be contradicted. We make the deduction; we do not let him make it.

4247. Do you mean that you get the figures on both those heads, and that

4247. Do you mean that you get the figures on both those ficuse, and that what would be done with those figures would depend upon your view?

Precisely, upon the evidence adduced. I need not point out that evi-

Precisely, upon the evacence sounced. I need not point out that eadence might be adduced to show that an improvement as a question of fact had not really been made by the tenant, or that it had been made by a person who was not his predecessor in title. A variety of questions might come in in that way.

4248. Lord Pensauce.] You mean not merely the figures, but that the valuator sets down the value of such and such improvements, and puts that before you?

Quite so.

4249. Then you inquire into that with a view to deciding whether they are improvements that ought to be charged on the part of the tenant?

That is our duty.

4250. Marquess of Salisbury.] The basis would be the calculation of what the landlord could let the bolding for, if it were proceeding from him for the

That is my idea, and the idea on which we set in the Court of Appeal. We take the firm as in the hands of the haddowt, and if he had to be it to morrow discharged from all transfer interests, and tenants' chiesa, and deduct from that whatever fair claims the terman has under the statute. Practically we take the farm as it stood in 1809, and deduct from that the effects of the Acts of 1870 and 1881.

4251. Chairman.] Do the Sub-Commissioners do the same thing : I cannot undertake to say that; I believe they do.

4252. Why should not they be asked to do that?

I believe they are quite aware that that is the view that our valuators go upon under our directions.

4253. Marquess of Solisbury.] When you speak of deducting 1870 and 1881 from 1869, what part do you deduct?

I mean the effects of the Act of 1870 and 1881 upon the land as it stood in 1869.

4254. Lord Brabourne.] Before the Act of 1869 the landlord could let the form by competition, could he not?

Quite so; but when we speak of the form in the hands of the landlord, I mean

Guite so; but when we speak of the firm in the hands of the landlord, I mean in the hands of a landlord who would not let it by competition but to a solvent good tenant.

good tenant.

4255. But still he might let it hy competition among solvent tenants, might

No doubt the competitive element must come into it.

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4250. Now that condition of things has ceased, has it not?

Quite so, and I take the operation of the two Statutes as reducing the value fixed by competition.

4257. Chairmon.

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Continued. 4257. Chairman.] In the cases governed by the custom of Ulster, do you or do the Sub-Commissioners go into the question of improvements separately?

Not if the tenant elects to stand on the Ulster tenant-right, because the Ulster tenant-right should cover all improvements. A tenant has a right to sell, but he must sell either under the customs or under the provisions of the 1st Section of 1881.

4258. So that it is not obvious at first eight that the Clause which is called Mr. Healy's Clause has much application to Ulster; when I say Ulster I mean where the Ulster tenant-right prevails?

Practically, I should say that all the tenants would prefer to sell under the Ulster enstom. 4250. And to have their holdings valued under it !

And to have their holdings valued under it; and I think they would have a right to that.

1260. There were handed in to the Committee on a former occasion two forms of valuation which had been prepared by your valuers, Mr. Gray and Mr. Russell, I think, showing the details which they specified in reference to the valuations they were conducting. The Committee asked your collesgues whether they saw any difficulty in the Sub-Commissioners furnishing the same character of information that your valuers did, and they appeared to think, if I understood their evidence rightly, that they did not see any difficulty in that; do you see any?

No, it involves nothing but more labour, it may make them a little slower in their progress. 4261. Lord Tyrone.] With regard to the purchase clouses, I think by what

you have handed in to-day, we may suppose that they are not working at present ? Quive so. I think that that return, as the result of the proceedings since

August, would indicate that. 4202. Have you any anticipation that they are likely to work in the future

in their present form i I do not think they will; at least there is no appearance of it.

4203. Is the operation of the Act upon the position of the tenants one of the causes of that? Clearly; if the same terms that are offered in the Act of 1881 had been offered five years ago, they would have been accepted very cheerfully.

4264. With regard to the suggestions you made before Mr. Shaw Lefevre's Committee, did not you at that time suggest that the landlord and truant should scree as to the envital sum to be paid? I did ; that is my recollection.

4265. Is that your opinion now, if there were any improvement in the purchase clauses? Of course the landlords' and tenants' agreements must be subject to the

sanction of the State, which lends the money. 4266. That is a matter of course, but the question I meant to ask was this, whether you would prefer that the landlord and tenant should agree out of

Court, or that the Court should fix a hard-and-fast-line, as the purchase money to be advanced? I think it would be very much more desirable that the landlord and tenant

should settle the matter outside the Court. Of course they must settle it within such limit as will leave the State safe. 4257. You think that if the landlord and tenant agree out of Court, the

State should be prepared to advance the money, providing there was sufficient security ? Yes, provided that whoever represented the State was satisfied that the holding offered proper security. The words in the present Act are, that they shall be satisfied with the security; of course the higher the proportion of purchase money, I need not tell you, the worse the security for the State.

(0.1.) 3 D 4 4268. In 4268 Is it your opinion that that would be the best form in which to make

Continued.

these clauses workable?

I think so; I think they would work better in that way than in any other. and with less expense.

4250. Do you think that the tenants would be inclined to buy if they had to

pay a less sum to the State than they have to pay a present in rent?

It is difficult to say what the tenant would do. I think the tenant nt present is in such a state of mind, that he is looking out for the future; and I do not think he quite knows his own mind. I think that if things settle down, the

tenants would be anxious to become their own landlords if they could do so by a certain payment at any rate not exceeding their present rent. 4270 Marquess of Salisbury If the Parliament of England could be removed

for a short period so that they could not hope for anything further from legislation, then they might be willing to buy at present you think? They might hope for something from other ways of acquiring property.

4271. Do you mean some more direct way?

Yes.

4272. Lord Tyronc.] At the time you gave the evidence which I before referred to, you mentioned that the manner in which the purchase money was originally arrived at by the Board of Works was their taking the valuation at 30 years' purchase of Griffith's valuation?

Yes; but then they had only the power of lending two-thirds of that, and that was on the rental as settled by the Landed Estates Court.

4273. Therefore taking the value at 30 venrs' purchase, they would lend an amount representing 20 years' purchase ?

They would. 4274. At that time you were of opinion that the tenement valuation was a very bad standard?

A very uneven standard.

4275. Is that your opinion still? Yes, it is a very uneven standard.

4276. And you would be against any avrangement carried out on the same lines as that which you objected to at that time, namely, on the tenement

valuation at a number of years' purchase? I think it would lead to erroneous conclusions; comparing the north with the south, for justance, different results would be brought out.

4277. Do you think that it would be also difficult to take the judicial rent as a standard?

I do : I think it would be both difficult and dangerous.

4278. As regards the Sub-Commissioners, we heard from Mr. Litton that they were to be retained in the localities in which they had learned their business; have they been so retained?

No, I do not think so. I was not aware that that was the arrangement. They have been retained in some cases; in others we have thought it better to remove them. In the first place, the increase in the number of Sub-Commissioners has varied the districts. The adding of four districts, it is clear, obliged us to break up a great many of the others.

427u. Do you not think it would be advantageous to keep the men in the district in which they had learned their business?

There are advantages, and I think there are objections to that, though I need not point them out. 4280. There are four arrangements in the Act which we have had a certain amount of evidence about. One, of course, is as to purchase; you say that

that is not working? That is not working.

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4281. Is the provision with regard to emigration working?
No.

 $_{\rm 4282}$. As to reclamation of waste land, is there anything being done under that?

SELECT COMMITTEE ON LAND LAW (IRELAND).

4823. We have had, of course, evidence as to the arrears showing that that clause does not work?

The amount advanced altogether is small, but the cause of that is very

ohvious.

4284. Chairman.] What is the cause of that?

The objection to lend money to the landlord on his own personal security.

4285. Earl Stanhope.] With regard to emigration, one witness has told us that it was necessary to form a separate commission for the purpose of emigration, and that it could not be managed by the head Commissioners; what is

your view as to that? I do not see that that is necessary; I think the difficulties lie in the statute. I think the statute as it stands at present would be very difficult to work.

4286. Take the boards of guardians first of all?

The difficulty has arisen from a want of power on the part of the hoard of guardians to give the security which the statute requires.

4287. Lord Brabourne.] There is no hody which has that power, is there?
No: the words are very stringent with regard to the security to be given.

4288. Earl Stamboge.] There is another question I should like to put to you as to the Sub-Commissioners. According to my view, it seems to me that if they could get a valuation of the Land Lofers they heart all the evidence, it would expolite their business immensely, and that there would be fewer appeals: do you at all agree with that?

I think that would remove their raison d'etre. I think that the present system must end by a valuation, and I think it might as well hegin with one.

4289. Viscount *Hutchiason*.] Do you mean a general revaluation of Ireland? Substantially we are revaluing Ireland. You have two concurrent valuations

in Ireland, one for the assessment of taxes, and one for the fixing of rent.

4200. Do you look upon what is going on now in the operation of the Land
Court as a permanent valuation of Ireland, or merely a valuation for 15 years?

That is a question I should rather not answer, because it would be only a guess. My own impression is that it is a perpetual valuation.

4291. Marquess of Salisbury.] But is not that assuming that the prices of

4291. Marques of Sattomy, 1 Bit is not that assuming that the processor.

Produce will be preprietal?

Unless there is some very material change in favour of the landlords, I think very few of them would like to embark at the end of 15 years upon a new

very few of them would like to embark at the end of 15 years upon a new crusade for the purpose of ruising their rents. 4202. But what about the tenants?

I am not prepared to say what would happen. That must depend upon causes which we resily cannot judge of now.

4233. Earl Stanhope.] May I ink you a question ahout the listing of cases. It has been the practice of the Commissioners to take the first cases on the list without reference to their importance or otherwise, has it not? No, not quite. It has been the custom, in all cases of evictions, to give them the earliest hearing we possibly could. With regard to all the others, I do not

think we could measure the importance of one case much against the other; they must come up in order.

4294. Marquess of Salisbury. Could you not group cases upon the same

4294. Marquess of Salisbury.] Could you not group cases upon the same estate together more than you do; it would save much expense on the part of the landlord, and probably some on the part of the tenant, would it not?

(0.1.) 3 E

We

We have tried to do that as much as we can, but in very many cases the proprietors' estates lie in different unions, and that makes it very difficult. Whereever we can, I think it would be a very legitimate action and a very right thing

pristors estates lie in diff. reat unions, and that makes it very difficult. Whenrere we con, I think it would be a very legitimate action and a very right thing to do, assuming the parties to wish it. Sometimes a landlord is not in a great burry to have his cases listed.

4295. Earl Stanhope.] Do you see any way of reducing the enormous expense of each case?

I do not see any way of doing that, because that expense does not arise from us at all. That is an expense that is entirely separate from our Court. The case is got up, of course, by legal people, and we have no power of controlling them out of Court.

4296. Lord Brabesrae.] I should like to ask you whether you concur in the opinion given by one of your colleagues, to the effect that the settlement of cases, up to the present time—the number settled being about 10,000 out of 80,000—till gives hope that there will be a clearing off in not an unreasonable time of the renainder, and a freeding of the Courts, so that they could go on fairly, and without impediment?

fairly, and without impediment?

I think a great deal will depend upon what action takes place out of Court. The number of cases dealt with has been, I think, precisely what your Lordship states, namely, 10,000, but I think they will be dealt with unch more rapidly now, and I think they could be dealt with more rapidly if they were dealt with more upon a principle of valuation than they are at present.

4017. Would it not be more likely that cause would be settled out of Court ingreater numbers if some definite principle of action were known to the public upon which the Courts acted, so that the decisions, having been given by the inferior courts, and affirmed or reversed upon appeal, the public might have some none serviam more training to the court of the court of

When they must are bourt or appeal in regularity from by what I have stated I think you will find that that will indicate the mode by which to dispose of a great many cases between landlord and tenant.

4298. But until that is the case, the uncertainty which prevails as to the

principle of action, tends to prevent settlements out of Court, does it not:

I think there must be always a great deal of uncertainty in the valuation of
Irish land.

4299. And of any land, no doubt?

Yes, of any land.

430r. Still, rents having heen fixed in certain districts upon an average, if the principles upon which they were fixed was known, would not that tend to the settlement of a great many cases out of Court?

There must always be those elements of calculation brought in that I have referred to. Assuming that we arrive at what I may call the gross rent, the question of the value of the deductions will always ha a very difficult one.

450: 'Is it more difficult in Ireland than in England? I valued a great many farms in old days for sessement, and the principle then used to be to value the whole farm at so much per acce; then to value the buildings, and educat from the whole rest a per-centage that we put upon the valuation of the buildings, for the purposes of assessment. Is if not precisely the uses a function of the propose of the purpose of the purpo

A great difficulty arises out of that, as to finding out what is the value of the tenants' improvements. The value of the landlordy improvements can always be measured much more easily; it is generally a much more definite improvement, and an account has been usually kept of it; but when you come to measure an Irish improvement; avery great element of uncertainty attends it.

4302. We

26th April 1882.] Mr. Vernon. [Continued.

4500. We were told by one of the winesses that the large estates in Ireland were as a rule fairly rented, and that the small estates were more highly rented, and that he anticipated that the rents of the small estates would be brought down to the standard of the large estates, and that in that way an equisable standard would be arrived at; do you think that that has been the case at all?

I do. We have not had before us very many of the large estates. Up to the present time most of the cases that have come before us on appeal have been cases from the smaller estates. I think it will be generally found that the large estates in Ireland are more moderately let than the smaller ones?

4303. You see no reason to contradict the assertion made by the Bessborough Commission, and I think in Parliament also, that, as a rule, the landlords in Ireland beye not been exacting enormous rents from their tenants?

Ireland bave not been exacting enormous rents from their tenants?

I do not. At the same time I have found rents ligher than I expected.

Sitting as a judge I have found more reack-renting than I believed to exist. I

Sutting as a judge 1 nave round more rack-renting than I believed to exist. I cannot say that I found it on the larger estates, but certainly it has been so on the small estates.

4304. Marquess of Salisbury.] Are those mainly estates that have been disposed of under the Encambered Estates Act?
Yes; those I think are slinest the worst.

4305. Lord Brabaune.] Is it true, as has been stated to us by several witnesses, that whether a man has been rack-renting his tenants or whether be has been giving them a fair rent, the reductions in a great many instances have been very much the same, and that, therefore, the result has been that the man who has been dealing leadly with his tenants and rearting them biglity, has get

a great advantage over the man who has been moderately renting?

Cannot say that I think that; I do not think that we should be fit to sit as a Court of Appeal if we were open to such criticism as that.

4306. The cases may not have come before your Court of Appeal; there may be many reasons why the laudlord has not appealed, but you do not think that the assertion which has been made with regard to the Sub-Commissioners' Courts is correct?

Unless I had the individual instances, I should be unable to deal with them, but that is not my impression. I think amongst the Sub-Commissioners there are many men very competent indeed to assess a fair rent, and very well inclined to do it.

4307. Are you able to draw any distinction with regard to the rents which have been exacted or asked from the old estates of Ircland, and those under the Rocumbered Estates Court?

Do you mean in exact figures or merely generally.

4308. Simply generally?

I bave no doubt the estates sold, particularly where they have been sold in small lots under the Landed Estates Court, have been very much more highly rented than the estates of the larger proprietors, who in very many cases have not altered the rents for a number of years.

4309. Marquess of Salisbury.] I suppose the buyers under the Encumbered Estates Court treated it as a more investment? Simply, and in many cases that have come under my observation they

squared the rental by the porchase-money.

4310. They were rather invited by Parliament to consider it as a mercantile

agio. Incy were ramer invited by Parliament to Consider it as a merconnect speculation, were they not?

Clearly.

4311. Lord Kenyy.] I should like to know whether you think the working

of the Act is at all damaged by the amount of arrears existing at the present time?

I think there is no doubt about it, and that those arrears prevent tenants from (0.1.) 3 E 2 coming 404

26th April 1882. Mr. Vernon. Continued

ooming in; in fact, there is no doubt about it. It keeps them in a state of con-

tention and warfare.

4312. Is there any suggestion that you would like to make to the Committee upon the subject?

I would sak your Lordship not to press me upon that point, because I have heen consulted by the Government upon the subject, and perhaps my opinion was an official one. I have no doubt that some steps should be taken to deal

with that matter.

The Witness is directed to withdraw.

The witness is directed to without.

Adjourned to Friday next, at Twelve o'clock.

Die Veneris, 28° Aprilis, 1882.

LORDS PRESENT:

Duke of Norfolk.

Duke of Marinosough.

Marquess of Salisbury.

Earl of Pennions and Montogomity.

Earl Standors.

Lord Renky.

Lord Renky.

Lord Renky.

THE EARL CAIRNS, IN THE CHAIR.

Mr. STANISLAUS J. LYNCH, is called in; and Examined, as follows:

4313. Chairman.] You are the Registrar of the Landed Estates Court, I believe?

4314. Can you state to the Committee what sales, in the course of the last two years, have been made in your Court to tenants?

I have Returns here of the sales. We have already furnished the Argyll

Return, which gives the sules of all classes of ioderest which would come under the Land Law from 1865 to 1876 inclusive. There was then a continuation of that Return made, on the motion of the Duke of Argyll, in 1880, and I have got summaries of the sales. Those Returns, I think, would be useful for reference.

They come down to the end of 1878. I have then made out a Return of the sales of 1879 and 1880, and I have shown on the Return with the letter "T" where the tenants bought. Then I have a short Return of the sales to teoants in 1881-82.

teoants in 1881-82.

4316. Lord Tyrone.] Has the Duke of Argyll's Return, that you refer to, heen published:

Yes. Then there is a continuation of that Return, and I am not aware whether that was over printed. I have got here a rough summary of it, and it is io your Lordships' House.

4317. Chairman.] The one which is printed you need not hand in; but the continuation of it you will be good enough to hand in?
It is a long Return, and I have only got the summary of it here. I have

To a long Returns a both summary, which gives the averages of the prices in every county in Ireland.

4318. Then, perhaps, it will be more convenient if in place of putting in either of the long Returns you put in your summary; that will no doubt

answer our purpose?—(The document is handed in.)

4319. This only comes down to the year 1878?
That carries it down to the year 1878. I have now a Return from 1st

November 1879 to 1870 vermber 1880, which I got made out when I was aware that I was to be examined here.

(0.1.)

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Mr. LYNCH. 28th April 1882.7 [Continued.

4320. This shows the average number of years purchase in each province for each year embraced in the Return No. 1, and the average rate for all Ireland: according to that the average for all Ireland in 1865 was 20 years' purchase, in 1866, 201; in 1867, 21; in 1868, 221; in 1869, 211; and in a portion of 1870, to 1st August 1870, 201 years' purchase?

The Return was made for the first half of 1870, before the Land Act was passed, and then continued for the second half.

4321. For the remainder of 1870 it appears to be 21 years' purchase; in 1871, 23; in 1872, 22; in 1873, 22; in 1874, 20; iu 1875, 22; Yes; then this is the summary for 1876, 1877, and 1878. (The document is

handed in.) 4322. This shows that in 1876 it was 224 years' purchase; in 1877, 224;

and in 1878, 231 ? The next Return that I band in is from 1st November 1879 to 1st November

1880. I do not give in that the average of Ireland, for I had not in fact time to get it made out; but I give it in provinces and counties. It shows in the outer column the various rates in every case, and those marked with the letter "T" are purchased by tenants. (The document is handed in.)

4323. This becomes a Return of each property sold? The Argyll Return is the same-

4324. But it does not give any average for the year? It does not give any average for the year.

4325. This is for 1879 and 1880?

Yes.

4326. Has this been laid before the House? No : I prepared that for this Committee.

4327. Then you have a Return for 1881?

Yes : the Return from 1st November 1880 to 1st November 1881 is confined to the sales to tenants, because I was unable, within the short time at my

disposal, to make out the other particulars. 4328. Have you any Return for 1882? I have a short Return of sales to tenants and to the Irish Land Commission from 1st November 1881 to 17th April 1882.

4329. What is the meaning of this entry that I see, "Sold to Land Com-

Those are two cases, where the Land Commission purchased from our Court; they had, in fact, made arrangements with the tenants.

4330. Arrangements to sell to the tenant, virtually through your Court, you mean? Yes.

4331. I see in one of those cases the property which was situated in the

county of Meath was sold at 16 years' purchase.

Yes; that appears to be so; and I believe that last year the owner refused 20 years' purchase for it.

4332. The owner refused 20 years' purchase for the same property? For the same lot; and there is a portion of the same estate there which was

sold in another period of the year, which brought a higher rate, that is, Ker's estate. In the Return for November 1881, I have a lot of the same estate sold at 211 years' purchase.

4333. Here is an estate in the county Down, "Robert J. Kennedy, leasehold,

528 years' purchase;" where was that situated? It was situated, I think, not very far from Belfast. It is not at all what one would call town park or snything of that kind, but if I may make an observa-tion with reference to these tables the averages which I have handed in are

very misleading, because one sale in a county will disturb the average altogether. 28th April 1892.] Mr. Lynce. [Continued.

gether, and you cannot rely upon tables of averages as in any way giving you even an approximate idea of the selling value of land in any county. That Return

of the Duke of Argyll gives every estate, and on every estate, you must estimate the various rates and consider the circumstances under which the price is arrived at. My experience is that the tables of averages are very misleading that way. I would like to band in an part of the letture for 1879-90 a creatal the Marquis of Conyagham's catate.

4334. Before handing it in, will you tell me what the object of it is ?

433.1. Before handing it in, will you tell me what the object of it is? The Return of 1879-80 would be incomplete without it. This was a very large estate, and we sold a number of lots upon it, the majority of them, I

large estate, and we sold a number of lots upon it, the majority of them, I think, to the tenants.

4335. Viscount *Hutchinson*.] Is that in the county of Clare?

That is in the county of Clare. This summary, in fact, could be attached to that Return, and form a part of it.

4336. Chairman.] I am afraid that it is a very large book, from what I see

before you?

I merely propose to detach a summary from this rental, and attach it to the
Return. I think it is worth looking at, as showing the averages of the sales.
All these lots were sold to the tenants.

4337. This is in county Clare? In county Clare.

in county Clare.

4338. And when were the sales made? The sales were arranged between November 1879 and November 1880.

4339. What was the average?
The rates varied from 40 down to 22 years' purchase, according to the value.

4340. How many sales were there:
There were 77 lots, I think, and perhaps about half-u-dozen of them were not sold, or it may be more. (The document is handed in.)

4341. Viscount Hutchingon.] The rates varied from 40 to 22 years' purchase

you say; do you mean upon the rental or upon the valuation? Upon the rental. It is a lovely let estate. The only to which was not sold no a tenant was lot of; that was sold to a Mrn. Moldabon. 'He bought it for 5,000.1; that was a 2291 years premase. Having bought it he made as rarangement with the tenants that be about first them lesses for 99 years at marine the sold of the sold price them lesses for 99 years at most constitution of the sold price them lesses for 90 years at a sterile seven as one difficulties even and ordinates the enable the nomin to bury, and they were opin satisfied that he should buy and give them lesses for 99 years at an increase of 20 per cent.

4342. Choirmon.] Then it was not really a sale to the tenants?
Not at all. He became owner and remains the owner, making leases to them for 99 years. That was not an arrangement to which we were parties in any way; I got this Return from the gentleman's solicitor himself.

4.43. When was that sold to Mr. McMahon? — ould not exactly state the Between Nevember 1890 and November 1880.

Between Nevember 1890 and November 1880.

Committee the November 1890 and November 1890.

Committee the Novemb

4344. Of what interests?

Of all interests, including life estates, short leases, annuities, and every class of estate that we sell, no matter how small.

(0.1.) 3 E 4 4345. That

28th April 1882.] Mr. LYNCH. [Continued.

4345. That may be a very valuable Return to Parliament, but I do not know that we should require it for this purpose?

In one way it shows the falling off in the sales in our court within certain

periods. (The document is handed in.)

4346. Lord Tyrone.] How do you account for that falling off at certain

periods?

The periods are of a marked character. We sold in 1869 1,168,857.

worth of property, and in 1870 we dropped to 77.2418. That was caused by reason of the uncertainty as to the result of the legislation then pendigin in regard to the Land Act of 1870. Immediately after that Act passed, the sales rote again to their normal condition; they went up one year to 17600001_{\star} , and in another to $1/000001_{\star}$, they were turn or year 1/17/697L in 1870 when the signation commonded in 1875 they were 1/31/697L in 1870 when the signation commonded in 1875 they were 1/31/697L in 1890 they fall to 320/818L, and in 1891 they fell to 31/1286L.

4347. Chairmon.] What is the state of things in the Landed Estates Court in the present year?

In the Landed Estates Court at the present time we are selling no property

In the Lindel Estates Court of the present time we are stump as properly at all, or hardy and, I may any, court house properly; comparating there is a panic in relation to limit. I think the Ricturus will show that any states that we have made up to perhaps the last month or so have been made used to perhaps the last month or so have been made up to the present the last month or so have been made up to the present the last month or so have been made up to the present the last court in to buy, whether teamns or others, have paid a fairly rise for the indi except in one or two others, paper to be low.

43.48. Have there been in the Landed Estates Court this year applications for sale at the instance of creditors, mortgagees, and others?

The petitions are coming in as fast as ever, and we are reading the titles and preparing conditions of sale; but the mortgagees are up to this time abstaining

from pressing on the sales, hecause they are unwilling to sacrifice the property until they see what is going to happen. I do not think that that forbearance can last.

A340. There are, you say as meny applications for sale as ever?

4349. There are, you say, as many applications for sale as ever? We have as many petitions as ever for sale. Our statistics would show, I think, that there is no falling off in the number of petitions.

4350. But scarcely any property is heing sold? Scarcely any property is being sold.

ora Vicesum Butchines 1 I ...

4351. Viscount Hetchiuson.] I understand you to say that the prices have not fallen off, according to your experience?

I think the Returns I have handed in will show that anything we have sold

(except, perhaps, one or two lots within the last mouth or so) has realised a fair price; it was a matter of contract.

4352. Does that indicate that in the few cases in which a sale has actually

heen made there was something in the circumstances of the case which made it convenient for the purchaser to pay the price that the vendor was willing to take?

I think the bulk of those sales are to tenants; in 1881 the hulk of our sales have here to tenants.

4353. Have you had, in the present year 1882, sales to tenants?
The small Return I have handed in will show the sales to tenants since the 18 November 1881.

4354. There are seven sales in this Return for the year 1882?

We make up our returns from November to November; that is one from the 1st November 1881 to the 17th April 1882.

[Continued.

4355. That is for six months?

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Very nearly.

4356. And there are seven sales in that time?

4357. One of the largest is the one you referred to just now, near Belfast, that of "Robert J. Kennedy, leasehold"?

4358. Then there is another in the county Down, Jane O'Donnell, purchase money, 2,300 i. Then there is another in Cork, that is the Fitzgerald property, two in county Meath, and two in Roscommon?

Yes. I have here a small Return which will probably answer the question your Lordship asked me as to the sales effected in our Court from the 1st November 1880 to the 31st October 1881; the number of lots sold was 218; of these there were sold by auction in Court 86, and in provincial towns 28; that is a total of 114 lots that were sold by auction. We sold by private contract 104, and of these there were town lots 46, country lots sold to tenants 46, and other country lots not sold to tenants, 12. The bulk were sold to the tenants. The number of lots adjourned or withdrawn from sale in consequence of no bidding, or insufficient bidding during the same period was 222. Of these 53 were town lots, and 169 were country lots. (The document is handed in.)

4359. During the last two years the majority of sales of agricultural holdings that you have made, seems to be to tenants? Of agricultural holdings the majority of sales have been to tenants. In looking at these Returns one has to look at the marginal notes that appear in

the printed Arryll Returns, because those notes very often explain the circumstances under which a lot appears to be sold, perhaps for 10 years' purchase. In such a case it may turn out probably that what is put down as a profit rent is only an estimate made by the vendor of the property, and is not to be relied upon.

4360. Have you had any experience in your Court as to cases in which the person selling was a tenant for life, or a limited owner?

Yes. 4361. What is done in those cases with the proceeds of the sale?

They are invested in the New 3 per Cent. Stock, and under the 64th section of our Landed Estates Court Act, we direct that the money is to be reinvested in land. Assume that we sell an encumbered estate of a tenant for life to pay encumbrances on the fee, if there is more sold than is sufficient to pay off his incumbrances we invest the balance in the funds.

4362. As a temporary investment?

(0.1.)

As a temporary investment, and then it is re-invested in land.

4363. But with regard to sales, that a tenant for life might voluntarily make to the occupiers on a transactian of that kind there would be a loss of income,

would there not? There would be a loss of income decidedly. It appears to me that if that class of estate were to be largely dealt with, there would be a necessity to have some enlargement of the powers of investment; in fact, we might follow the

larger powers given to trustees in relation to investments under money settlements. 4364. Such wider investments as are sanctioned; by trustees generally, you mean?

4365. It would make a difference of nearly one per cent., would it not? Yes; it is a clear loss of income, and an alteration would be absolutely

necessary. 4366. What is the course taken in your Court as to head rents, or quit rents, when there are sales? We

Continued

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28th A	pril 1882.]	Mr. Lynch.			-

We sell subject to the head rent.

4367. Do you apportion the head rent: No, not necessarily. For the convenience of lotting, or otherwise, we throw the head rent upon one large lot.

4368. Have you the power to do that?

We do not apportion it as against the owner of the rent; we put it upon one lot in indemnification of the others.

ot in indemnification of the others.

4369. You put it upon one lot, and give the others a cross indemnity?
Yes. Our conveyances ron in this way, "to indemnify all other lands

charged therewith," and sometimes for convenience we divide the head rent; if $100 L_s$ a year, for instance, we put 50 L on one lot, and 50 L on another.

4370. That can only be in the same way with cross rights for the one that pays too much ?

Just so. On the Conyngham estate, for instance, we add at the foot of the document "deduct probable amount of tithe-rent charge; deduct probable amount of quit rent;" the profit rent stated at foot of the rental is what we really sell, and what we calculate the purchase money upon.

4571. Do you ever redeem the head rents? No. The redemption price is either 27 or 28 years' purchase as to quit reuts.

437.2. Do quit-reuts sell at that price?

No; but you cannot redeem them under-

4373. You mean Crown quit rents ?

Yes: the Crown will not part with them under 27 or 28 years' purchase, and the Church Commissioners' (the Land Commissioners now) rate was 22, or, 1 think, 22! years' purchase.

4374. Their rate for what: For the purchase of tithe-rent charges.

4375. You mean they sell at that rate :

If I were paying title-rent charge and wished to redeem it, 224 years' purchase is what I would have to pay. 4376. They take 224 years' purchase?

Yes; that is the scale upon which the redemption is calculated.

4377. At what rate do head-rents (I do not speak of quit-rents) sell in

Ireland generally?

My experience is, that land in possession sells at the highest rate; next to that well-secured head-rents; head-rents which do not run near the value,

say 50 l. a year, payable out of a larger interest.
4378. Marquess of Salisbury.] What do the persons to whom you refer consider generally a sale-shle margin for head-rent?

sader generally a salesable margin for head-rents?

I should say about a third, but of course the larger the margin the better the prior.

4379. Chairman.] Do you mean where the head-rent is a third of the profit rent?

Yes; I consider that is a well-secured head-rent.

4380. What comes next in value?

I put land in occupation first, before head-rents or anything else; land let to tenants comes next after head-rents ?

4381. Have you considered what is the extent of the inducements to purchase which are offered to tenants by the Land Act of 1881?

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I think they are practically as limited as they were under the Act of 1870. I think there is, comparatively speaking, very little difference.

4382. You think there is very little improvement in the terms:

There is very little improvement in the terms. It is three-fourths of the price as against two-thirds of the value under the Land Act of 1870; and it appears to me that very often it is a question which of the two is the greater.

4383. Three-fourths of the price might not he equal to two-thirds of the value, you mean?

Quite so; and the 5 per cent rate is not an inducement. You must give the tenant such terms as will make a substantial reduction in their annual payments. They look upon the annual payment just as they look upon the rent.

4384. Do you mean to say that a tenant is first to have his rent reduced hy having a judicial rent fixed, and that then, in order to induce him to purchase,

he must have a still forther reduction?

No, clearly not. It appears to me that that would be hurning the land-londs' candle at hoth ends. I refer to a case where the tenant holds his land on what one would consider a fair rent. I am not going ioto the question of the indical rent at all.

4385. That is to say, that the transaction of sale and purchase must give him the sort of reduction that he may flatter himself he would obtain it be

want into court!

Of course, "Assume that a tenant has had his joilicial rent fixed; if you give him money at a low rate of interest he will then have in view the ultimate him to make the court of the both of the court of the bothing; that will weight with him very much, his my own idea is that the State should advance the emire amount of the purchase enough, and that they should advance it at you ener. With a hall pre-ort, inhing fund; sold I am quite satisfied that there is ample escurity for that moory. A cenant has the court of the court of

4,386. The wish on the part of persons interested in land in Ireland, that the whole of the money should be advanced, is natural; but the more important question is, what would the position of the State be: 40 you consider that if

the money were advanced the security would be sufficient?

Ample.

4387. How do you make that out? The State has, besides the value of the landlord's interest, the value of the tenant's interest, as security. The rent is not a commercial rent; there is a value outside what the landlord receives; he does not get the full commercial rent, and the tenant is not nevine the full commercial rent in a case of that kind.

rem, and the tenant is not paying the following commercial read in a case of that kind.

4388. Is not that just the same sort of security in another form of expression; it is not an additional security?

Yes. Then besides that you have the fact that every year the security of the

State is increasing, because all the improvements made by the tenant add to the security of the State; every shilling the tenant purchaser lays out upon that land is increasing the security of the State, who are the mortgagees.

4389. That, after all, comes to this, does it not, that the State has, as a margin

4,509. That, anter this, Course to the benant's interest; from the nature of the case, will every year go on increasing and become larger as each instalment is paid?

Yea; I think before Mr. Shaw Lefevre's Land Committee of 1870 there was

a good deal of evidence given upon that subject, and amougst others Mr. Baldwin (who is one of the Sub-Commissioners) gave very strong evidence (evidence which Mr. Shaw Leferer relies upon in his Report) to the effect that the whole of the purchase money was secured.

3. F. 2

4360. We

Continued

28th April 1882.] Mr. Lyncu,

4390. We have got the evidence of that Committee before us and need not go into it now. Have you had any experience, since the Act of 1881 passed, of what the tenants interest is considered equal to, in places where the tenant had no tenant right before, places where there was no custom of Ulster ?

I have not seen any sales of interests out of Ulster since the Land Act of 1881 passed.

4391. You are not acquainted with any sales by tenants:
I have not known of any sales by tenants of their interest during the past

I have not known of any saise by tenants or user! interest ouring the past year. I happen to have the management of the estate of a relative of mine, and have settled some cases that were going into Court. Amongst other things we settled the value of the tenants' interest, and in settling it! left is very much to themselves to consider what their interest was, and I found that they attached considerable value to their interest was, and I found that

4392. That was not a practical proof of what they could sell it for?

4393. Viscount Hulchinson.] Can you give us any notion at all of the number of tree, seven, and upwards.

4394. Chairman.] Have you the means of forming, from your experience in the Landed Estates Court, any general idea of what are the legal costs on a transaction of purchase by a tenant through your Court?

The tenant's costs are the costs of his conveyance and the stamp duty on his

deed.

4395. Does the teuant, in your court, if he is a purchaser, pay you anything as regards the investigation of title?

No, that falls altogether upon the landlord.

4396. Was that always so in the Landed Estates Court in the ordinary case of vendor and purchaser?

Always. Under the vendor and vendee clauses of our Act the usual agreement is such that the landlord always pays all the costs of the title.

4307. And the tenant only pays the expense of the conveyance?

That is all.

4398. Does the landlord pay your Court for investigating his title?

He pays his solicitor in the shape of costs, and the registry of deeds he pays in the form of searches.

4390. I am afraid I do not make clear what I mean. If there is a sale in your Court you give a parliamentary title; in order to give a parliamentary title you must have the responsibility of examining the vendor's title; that

must the time, and give trouble to come of your mine.

The expense of this, or does the vendor pay you suphing for it?

We take out of the purchase money an advances duty. The advances duty is supposed to go in part liquidation of the costs of our Court, and that duty is should to go in part liquidation of the costs of our Court, and that duty is should be, per cent, up to 10,000 L, between 10,000 L and 28,000 L is at the rate of 35. per cent, 10 years 25,000 L its once to 2 s. 6 d per cent.

4400. The vendor has to pay that? The vendor has to pay that,

4401. And besides that he has to pay whatever private costs are incurred by his own solicitor?

Quite so. Those costs include delivering the abstract, rouching the abstract, and the government of the state of the state

28th April 1882.7 Mr. LYNCH. [Continued

there very much the same, in fact, almost exactly the same, as that with which he would have to present us.

4402. With regard to the Stamp Duty, you have transactions sometimes in your Court in which there is an advance of money for the purpose of assisting in the purchase, and a mortgage for that advance, as well as a conveyance to the purchaser; is not that so? Yes: that is very common.

4403. Is there hoth a mortgage and a conveyance stamp duty? The usual form of our deed in those cases is "upon trusts to secure so many

thousand pounds secured by a deed of equal date.

4404. Is there an ad valorem stamp on it? There is a mortgage stamp on that, and there is a stamp duty on each con-

veyance besides. 4405. Those are both ad valorem stamps, are they not.

They are both ad valorem stamps.

4406. So that there is a double stamp duty?

There is a double stamp duty to the extent of the loan-

4407. The mortgage duty is to the extent of the loan, but the conveyance duty is to the extent of the purchase-money? Quite so.

4408. How does the registry of title, or the record of title in Ireland connect itself with the proceedings in your Court; is it under your management?

It is under our management.

those transactions.

4400. And what exactly is it? If there is a sale in our Court, and the purchaser wishes to have his conveyance placed upon the record of title, it is put upon our record, and then it is not registered in the Registry of Deeds Office at all, though the fact that it is a recorded estate is entered there.

4410. It does not go into the Registry of Deeds Office in Ireland? It does not go into the Registry of Deeds Office in Ireland. The fact of recording is entered upon the registry of deeds, and then that estate is kept off the registry of deeds as long as it remains on our record of title; but we have frequently found when coming to sell recorded estates that they have been dealt with by deeds registered in the Registry of Deeds Office, notwithstanding that they are recorded with us. The two systems more or less clash.

4411. Are the two systems still going on, or has the record of titles system come to an end ? The record of titles system is not working perceptibly at all.

4412. Supposing there came about a purchase by tenants to a considerable extent throughout the country of small holdings, and matters of that kind, of course the management of that through the registry of deeds in Dublin would he a very expensive and cumbersome thing; has it occurred to you that any simpler form of dealing with that matter in the country could he established?

That is a large question, but my own idea would be this, that possibly there might he local registries in the principal towns, and that they might be kept, through the officials, in correspondence with the principal registry office in Henrietta-street, just as at the present moment in the Probate Court, there are district registries, and at the same time in Dublin, records of all the pro-ceedings in the district registries. That could he done, I apprehend, and that would facilitate the transactions in the country by tenants or small holders, and at the same time enable persons searching in Duhlin and otherwise to follow

(0.1.)3 × 3 4413. That

Continued.

28th April 1882.] 4413. Test would still be the registry of deeds?

That would still be the registry of deeds. 4414. But supposing something simpler were needed for the purpose of

dealing with those small matters, something like a transfer by an entry without deed, how could that be managed in the country? I apprehend that if that system were adopted it would be the more necessary

to deal with it by an entry in the locality. The staff now employed in the various districts under the extensions of the County Courts Act, and as clerks of the peace, and men of that class require very large professional skill, and 1 think one would have the materials amongst them for the working of a system of the kind suggested.

4415. Lord Turone. I think you said that you had had some experience of the management of property? Yes, I have been managing property all my life nearly, for some members of

my own family, and I hold some land myself. 4416. Have you formed any opinion as to the method by which the Sub-Com-

missioners are proceeding ? I have been watching their proceedings a good deal. At the present moment

there is great doubt as to whether the Sub-Commissioners act as valuators or not when they visit a farm, and I am inclined to think it would be better that they should not act as valuators. I do not think they have the time for it or the opportunity of making valuations, and the Act, I think, contemplates more particularly their visiting, and I think it is very necessary that they should visit the lands for the purpose of verifying the evidence they have heard, and forming their own indement upon the evidence, but I think it is very difficult for them to value; I do not think they can possibly do it. They have not time to do it. It would be a hard day's work to value 200 acres or 300 acres in a day in small holdings.

4417. Would you propose any alteration as to that?

I think there should be official valuators, and I think the official valuator's report should be regarded as evidence; I also consider that the official valuators should be subject to examination. I am clearly of opinion about that, but I think what is very necessary is that there should be some general instructions issued to valuators, and instructions to the Sub-Commissioners, which everybody would understand, so that we would know upon what general hasis they were making their valuations. We have decisions now by the Chief Commissioners, and we have a decision of the Court of Appenl which would enable the Commissioners to issue general instructions as to how these valuations should be made, including a scale of prices.

4418. Lord Brabowne.] Do you mean official valuators, appointed by the Sub-Commissioners' Courts?

By the Chief Commissioners. I think they should be at the service of the Sub-Commissioners.

4419. Earl Stanhope. That is the case now, is it not? That is the case very much as regards re-hearings; I hold that there should be official valuators in every case.

4420. That means with the Sub-Commissioners as well as with the Chief Commissioners?

Yes. 4421. Lord Brabourne.] Do you mean that valuators appointed by the Chief Commissioners should be attached to the Court of the Sub-Commissioners, and

that they should be subject to examination and cross-examination? Quite so. 4422. Lord Tyrone.] Would you propose that tenants should serve notices

upon their landlords before serving an originating notice? I think that that is a great blot upon the proceedings. The first intimation 28th April 1882.] Mr. Lynon.

that a hashford gets of his tennat being derivous of going into Court is the originating nodes, and the effect of that is that be commences what is equitated to a fave-sult without asking his handleed to come to a settlement. I think, incomplete the control of the control of the control of the control of the incomplete the control of the control of the control of the control income to the control of the control of the control of the control Court. There would thus be an opportunity given for a number of settlements upon the basis of purchase or otherwise. I show that that the value reduce the costs very much; and I will explain why I think so. Under the reduce the costs very much; and I will explain why I think so. Under the reduce the costs very much; and I will explain why I think so. Under the reduce the costs very much; and I will explain why I think so. Under the reduce the costs when the cost of the cost of the costs under the costs of the costs under the his costs under the ride, and then, when you came to record the agreement which you have made out of Court, you pay a further fee, so that the two fore concluded we weakly of the other recognition of the section. That

4.423. Do you think that settlements out of Court would be come to, supposing the Chief Commissioners were to send down a valuer of their own to value the properties for both parties?

My suggestion would be this, that if the originating notice were served, then that the Commissioners, without sending the case to a Seb-Commission, should used the last of the control of the server of the server

4424. With regard to what you said just now about the State advancing the whole of the purchase-money, have you any reason to believe that if they did that there would be a wbolesale expropriation of landlords?

No; I am of opinion that the process would be very gradual. Assuming that the whole of the purchase-money was advanced, and that the sales (as they should be in my judgment) were a matter of contract between the landlord and the renant, I am strongly of opinion that the process would be very gradual. There are a large number of estates that would not be sold at all; you would find that encumbered landlords would sell sufficient to pay their encumbrances. Landlords whose relations with their tenants were not very happy would probably sell, and some absentees would sell too; but there would be a large number of estates which would not be sold, estates upon which there are large farms. I do not think those would be sold; and, again, there would be a number of landlords who could not sell, because their margin would be so small that if they sold and invested the money in ordinary funds or other securities their income would possibly be reduced, and I do not think the balance of security would weigh against the sensible diminution of their income; I think they would bold on. Then there are a number of estates which are subject to jointures; those estates could not be sold unless you were to bring in a Bill for the fixing of fair jointures. Take the case of a man with a small income of 2,000 /. a year, and a large family. At a time when he considered his rental a perfectly safe one, and a perfectly good one, he put that in settlement, and considered possibly that if he left his eldest son 1,000 L a year free. and gave the rest to his wife and family, he was making a fair settlement of (0.1.) I think they will not sell.

such a small estate. Supposing the eldest son's rental is reduced by 25 per cent., the result is that the whole loss falls upon him, and the jointress and the counser children come off hest; that class of estate, therefore, will suffer, and

4425. Your opinion is that the operation of the altered state of circumstances would be gradual? Gradual, but effectual.

4426. Do you consider, from your knowledge of the country, that it would

be likely to make future proprietors loyal and law-abiding? Decidedly. I am strongly of opinion that it would work a great change in

that way. 4427. Lord Brabourne.] The case would be worse for the elder son than you put it, would it not. If the 25 per cent reduction operated upon the 2,000 L, practically it would all fall upon the 1,000 L a year that he had, so

that it would be 50 per cent., would it not? It would: therefore I say his position is a very unhappy one.

4428. Lord Tyrone.] If nothing of this sort is done, do you think that

land is likely to become saleable again in Ireland?

I think unless something of this kind is done that land would be practically unsaleable, there would be no bidder for it. The tenant will not buy unless you give him better terms than he has at present, and there are a number of mortgagers whose margin is very small, and I am satisfied that they will have to buy in order to save themselves. When things become hopeless, they will probably take, as we say, "the beast for the damage." I am afraid that that will be the result in the case of encumbered estates. At the same time I do not consider that land, as land, has depreciated really in value at all. I think that the present depreciation is altogether due to panic, to agitation, and to uncertainty. There was the agricultural depression of 1877, 1878, and part of 1879, but if we look back we have periods very similar to those. I would like to illustrate that by a return. In Ireland a very good indication of the state of the country are our deposits. I cannot go further back than 1843. The deposits in the banks in Ireland in 1843 were 6,900,000 /. In 1846 (I sm taking them in periods) they had risen to about 8,500,000 l. In 1847 (one of the famine years) they dropped to 23 per cent., to 6,493,000 L In 1848 they commenced to rise again, and rose steadily till 1859, when they stood at 16,000,000 I. Then in 1860, 1861, and 1862, we had bad years, and they fell from 16,000,000 L down to 12,000,000 L; in 1863, that was a reduction of about 5 per cent. per annum. Then they commenced rising again, and from 1864 they went on up to 1876, when they touched 32,000,000 L; and in 1881 they fell to 28,289,000 l. The reduction in these later bad years appears to be only something under 4 per cent. per annum as against 5 per cent. in 1861, 1862, 1863, and 1864, and io addition to that 28,000,000 4 we have got now what we had not in the earlier days, namely, 1,229,000 L in the Post Office Savings Banks, which should be added to the bank deposits. Another illustration of the state of the country is this. In 1841 we had 101 baoks scattered through Ireland, in 1856 we had 178, and in 1880 we have 442. Now what banks live and thrive upon are the deposits, and I think these figures are very significant. (The document is hauded in.)

4429. Viscount Hutchinson.] From the figures you give you take the deposits at about 30,000,000 L in a round sum? Including the deposits in the Post Office Savings Banks.

4430. How much of that do you suppose to be the property of tenant farmers?

It is very difficult to estimate that. Dr. Hancock, who is a great statistician, and who was examined before Mr. Shaw Lefevre's Committee, gave evidence to the effect that the great bulk of it represented the farmers' money, and I consider that that is the case. 4431. Lord Tyrone.] What inference do you draw from these statistics?

That

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That the country has been gradually and steadily improving; that the present depression, like the depression of 1863, is only a temporary one.

4432. Lord Brabowne. May you not also draw from it the inference that there is a considerable amount of money available for investment in land if an opportunity arose for its investment? Quite so.

4433. If the land could be secured to the huyer so that he might derive from is interest somewhat greater than he can obtain from a bank or a denosit, he will probably invest in land, you think ?

Yes, from inquiries I have made, I find that the farmers through Ireland of later years have found the advantage of investing. I am told that many of them have made English investments, such as in the London and Westminster Bank. The reason why I think that the whole of the purchase money should be advanced is this. I think it is desirable to leave farmers the money they have as capital, not alooe for cultivating their land, but also for the purpose of providing their sons and daughters.

4434. Do you not suppose that the landlords would have been very glad to have had left to them the rents they had with which to pay off the younger children's fortunes and jointures, and so on?

No doubt they would.

4495. Lord Turone. From your experience of sales in the Landed Estates Court, do you think it would be possible to fix a standard as regards the number of years' purchase to be advanced?

I think it would be perfectly impossible to fix any standard that would apply to the country generally; I think it would be a very great mistake. The price to be paid by the tenant should he a matter of free contract between him and his landlord, and the duty of the person having the control of the advance should be limited to seeing that the State had in the land security for the money they were advancing. I think that averages sometimes are very misleading, as I have explained before, and it is very difficult to arrive at a correct estimate from them.

4436. Do you think that the present Court of Land Commissioners is capable of working, or that it would be likely to work, a large scheme of purchase to the satisfaction of everybody?

I am afraid the Land Commission are in a position of difficulty. They are the Court to fix the tair rent; in addition they represent the State; as it were, they represent the mortgagec, and their first duty is to see that they are getting the largest margin that they can for security for the advance they are making, as a private mortgagee would do. The only way in which they can get that largest margin is by depreciating the value of the article that is being sold, and therefore I think that they are very much in the position that our Court were represented to be in under the 46th Clause of the Act. We were represented to be preferential auctioneers. There is a phrase known on the Stock Exchange as the "hears of a market," and I am afraid the Land Commissioners become necessarily the brokers for the tenant.

4437. Marquess of Scilebury.] Do you mean that the tendency of the Land Commission will be to lower the rent in order that they may afterwards buy the land at a cheaper rate?

No, certainly not. They are looking for a margin; the landlord, or the seller, is looking for the highest price he can obtain; and if there is any doubt as to the margin, the tendency of one's mind would naturally lead one to say, we must take care that this man does not give too much. Of course it is not that they would intentionally do an injustice, but I am afraid it would be the inevitable result of their mode of proceeding.

3 G 4438. Viscount (0.1.)

28th April 1882.7

Mr. LTNCH.

[Continued.

4438. Viscount Historium Jand of the position in which they are piaced; I should say of the position in which they are piaced. In Mr. Shaw Leferrys. Draft Report (not the Report settled by the Committee and finally adopted, speaking in reference to our court, he says, "there are odvious advantages in utilizing the same department; on the other hand, it is difficult to understand how the pitches of the Laurent of the other hand, it is difficult to understand how the pitches of the Laurent of the court, and the committee of the contract of the tenant." If I read for "lodge of the Lauded Vistant Court," "Laud Commissiones," I disk the lineTeres to vibrous."

4439. Do you concur in that opinion?

I concur in that opinion, so far as that goes, certainly.

a440. Marquess of Salisbury.] Do you think some other body might profittable undertake these purchase operations, that is to say, some body different to that which has to adjudicate upon the fair reut?

I think so; and if you look into the Evidence of Judge Flanagan before Mr. Shaw Lefevic's Committee, and Mr. Plumptou's Draft Report, I think the basis is there bid for it.

444: Lord Tyrose.] I want to ask you one question about the landlords' valuators. We have had it in evidence that the landlords' valuators have changed the basis of their valuation; have you had any experience of that at all?

I have. That was what I had in view in wishing that the Commissioners should issue instructions. I have here the instructions issued by Sir Richard Griffith. Those instructions gave a scale of prices; also a direction as to how land was to be valued. I believe the Commissioners should issue similar instructions, giving a scale of prices amongst other things. That is a necessary thing. I believe that the present valuators, as a rule, are running wild, as it were, in their valuations. One man is valuing according to one idea, and another man is valuing according to another idea. I have here a copy of the Cobden Essays, which includes one by Judge Longfield (who is a very good authority on this subject) on land tenure in Ireland; and in that essay there is a paragraph that I would like to call attention to in reference to the valuation of the rent of tenants. He says: " But every one who has any experience knows that nothing can be more uncertain and undetermined than the valuation of the land. It is not uncommon to see two valuators differing enormously in their estimates, and yet neither suffering in reputation as if he had made a discreditable mistake. It is probable the value as fixed by any tenant-right measure would be less than half the rent which a solvent tenant would be willing to pay. All future valuations would be still more uncertain; for as soon as the pussession of land ceased to be a subject of contract by mutual agreement. the valuators would have no average market value to refer to, and would form their estimates on the wildest principles. Then he says in a foot note (and this is the last edition of the Colden Essays, which were published at the request of Mr. Gladstone), "It is highly probable that, in the excited state of feeling that would be raised by an alteration of the law, no valuator would venture to express an opinion of the value of the land that was not in accordance with the tenants' wishes." We have plenty of capable and highly respectable valuators in Ireland. But remember, we have 16 Sub-Commissions now and 21 county courts, and the more you multiply those Commissions, and the number of valuators, the lower you must go in the scale of valuators; you increase the number of inefficient valuators. The O'Conor Don, in his report, refers to the very same thing. He says, "To estimate correctly even the fair commercial letting value of land is not an easy task. The valuator, or, in any case of arbitration, the umpire, to be competent should be a local man, having local knowledge of the particular land he is asked to value, of its past history, and its capacity for production as tested by experience; and if he he a local man he can scarcely be free from local prejudices, local feelings, and, above all, from local suspicions."

4442. Marquess

28th April 1882.]	Mr. Lyncu.	[Con
		-

4442. Marquess of Salisburg.] What is it that you are reading from ?
From a reprint of the OConor Don's Report on the Land Act in the case of
the Besshorough Commission.

4443. Your opinion is that the prophecies with regard to valuators contained in the two extracts you have given to the Committee are in course of being fulfilled?

fulfilled?

I have met first class valuators, but I think that that which I have stated is the locvitable result. The evidence given before the Commissioners is very

4444. Lord Brahourne.] Does it not at all come to this, that competition is the natural way of ascertaining the value of any thing, and that when you exclude competition from that ascertainment of value, you are sare to get into

the magnas way or ascertaining the value of any uning, soot half when you exclude competition from that ascertainment of value, you are sare to get into inextricable confusion?

This is the inference, but I would rather not discuss that question. I would blue to not in a Return, with your Lordshira' nermission, reference to the

lite to put in a Return, with your Lordships' permission, referring to the prosperity of the country, and which I have here in the form of agricultural statistics, relating to produce and live stock in Ireland, showing that there has been a gradual increase. (The document is handed in.)

4445. Lord Tyrone.] With regard to those extracts you were reading just now, do you think from your own experience that the present valuators for the landlords are loclined to take the judicial rents for the basis of the valuation instead of taking the original value of the farm to the open market as the busis?

I think they are naturally anxious to do what is fair, but they go out without as chart, and then I think they are looking for the basis upon which the judicial rent is arrived at, and are continually misled as to the law about improvements, no matter what the valuation of the landford is, the judicial rents geomally appear to me to come helow it.

4446. My question was pointed to this way, do you think the landlords' valuators look to the putting in of a valuation likely to be accepted by the Sub-Commissioners, or to putting in a valuation of the fair value of the land?

I think they are misled. I think, in making their valuation, they are trying to find out the basis upon which the Commissioners are valuing and deciding.

4447. Marquess of Solithury.] Do you think they have found out the basis upon which the Sub-Commissioners proceed? No; they are working wildly, I think.

4448. Have you any idea of the mode of ascertaining the value of a farm when there is no market in which it can be dealt with; could you do it yourself?

I do not profess to be a valuator.

4449. Have you any conceptiou of the mode in which a man would set to work where there was no market price to indicate the value of a farm in order to find its fair reot?

I do not say that it is not possible, but the absence of a market price makes the task very difficult. You can ascertain what the producter powers of the land are; you can ascertain what that produces cells at in the market upon severage price, but you must have the prices for the valuation to be just. It will not do to have one valuator making it upon one scale of prices, and another upon another, such suppara to be doing at present.

4450. Lord Brabourne.] Do you think it would be possible to lay down some definite principle upon which the Sub-Commissioners could act? Clearly.

(0.1.) 3 G 2 4451. Lord

4451. Lord Carysfort.] You think that it was done in some case, as I undersound you?

derstand you? Yes; I have the hook here in which it was done.

4452. Lord Brabewrne.] Without some principle being laid down, confusion, you think, must ensue?

It must. There is no guide by which the landlord's valuator or landlord's

It must. There is no guide by which the landlord's valuator or landlord's agent can arrive at any estimate of how he can settle other cases.

4453. Lord Coryefort.] The scale of prices laid down by Sir Richard Griffith were contained in the Act of Parliament, were they not ? Yes. If the Land Commissioners frame rules laving down a scale of prices.

those rules, like all other rules, must be laid upon the table of the Houses of Parizanent, and he subject to revision. I thair is would be a very easy thing to do. One thing I forgot to mention was this. I think it is a great pity that valuations and inspections are made by the Commissioners in the depth of winter, when the lands are flooted. It is impossible for any man to form any fair judgment upon the character of the land under such circumstances.

4454. Duke of Mariborough.] You attach very great political importance, do you not, to the arrangement we have been discussing, viz., that of the tenants purchasing their holdings, and also in regard to the social condition of the country?

Very great. I think it is the only chance we have of peace, and of a return to the normal condition of things is Ireland. I think if we go on living in a state of uncertainty there is food for agitation left, and so long will the country remain in an unsettled condition, and the landlords property will be gradually sliced away.

4455. Looking at the transaction which must take place between the State and the tenant, and the State becoming a mortgagree, have you heen led to consider what would be the position of the State, if it was forced to foreclose its mortgage at any time?

I think that the land would be sold and bought freely. Up to the time of the present agitation in the North of Ireland, where I happened to have the management of some small property, if a tenant failed, and his tenantright was sold, there was no agitation, and no bostile feeling against the purchaser; there was nothing of that kind.

4456. You are assuming that the present agitation will die out, and that then the normal and natural stare of things will recur, when land may be freely bought and sold?

Quite so. I think, if I could not bope that that will happen, I would bave to give up all bope of governing the country. If you cannot maintain the common commercial credit of the country and bonest dealing, there is an end to order, and you will not be able to collect taxes.

4457. Do you not think there may be some difference between the case of a farm, bought of a particular individual who may be selling his private interest, and the case of a purchase from the State, who would be selling the farmer's property?

My observation in reference to the tenant's interest in the north referred also to a case where the rent happened to be in arrear. I do not think that that agitation would arise; at least I should hope to

agitation would arise; at least I should hope not.

4458. Do you not think that a political significance would attach to the case of the State coming in as mortgages, foreclosing and selling the property of the farmer who has hought his farm, which would not attach to the case of an

I think not; at least I should hope not. 4459. Suppose there were a difficulty in finding a purchaser, what could the

I do

Continued

ordinary transaction between individuals?

State do then?

I do not look forward to being unable to find a purchaser, because I think the demand for land exists; you have the population, and you will have persons to buy always. I am quite satisfied that if I had land in hand now, and this temporary excitement had gone down, the tenants would be willing to take it

as heretofore. 4460. Supposing a period of scarcity were to arise again, such as has already happened, when the teaants found great difficulty in paying their rents, we might have a period of famine again; suppose such a period as that arose, and the tenants or farmers who had purchased their farms were unable to pay the annual instalments of their mortgages, what would be the position of things

then. There must either be a very large sale of farmers' interests or great loss to the State, must there not, in that event?

I do not think that that would be the result. There might be a temporary postponement perhaps. I am looking back now, say to 1856, and looking through the small estates I have had to look after, I do not find that up to 1877 there was any substantial arrear of any kind on those estates beyond the current gale. I always found rents most puactually paid up to 1877. Even in these bad times we have the evidence of the Church Commissioners that the instalments have been fairly paid in their case.

4461. Have they been regularly paid? At the time of the discussion of the Land Act of 1881 that was put forward very broadly.

4462. Do you consider that it would be desirable, in view of an arrangement of this sort, that each farm should bear its own individual security, or that any security should be taken upon a larger area for the payment of the instalments

due to the State, such as a union or a barony?

If there were a complete conversion of the tenants (which I do not contemplate) into proprietors, that might be a security if such security were required, but against that, if a portion of the union were in the possession of a landlord, I think the practical result would be this, the deficiency would be raised by a rate; the landlord would bear half the rate, and is addition he would bear the whole of it where the holdings were under 4 L; so that I think possibly men in the union who were not the subjects of default would be contributing towards the liquidation.

4463. So that if the landlords had sold a portion of his own estate he would be paying the charge due to himself?

4464. Rarl of Stankope. Do you think it would be possible for the State to limit the size of boldings on an estate, and re-sell? I think not, and I think that would be very undesirable.

4465. Surely it would be undesirable to fix a men without any capital or any employment on two acres of land, would it not?

I think the doctrine of the survival of the fittest will come in in the long run. There are certain portions of Ireland where the estates are overpopulated. I kaow, for instance, one estate in Galway and Mayo (of which my son happens to be receiver for the Court of Chancery, on which about 3,000% a year is paid by 600 tenants; that estate is now for sale. In a case of that kind I think the Emigration Clauses might work conjointly with the Purchase Clauses, and that the State might offer the means of emigration to those who could go or who would like to go, and thus tempt them to go, leaving the residue of the land for division amonest the others; but I put no limit.

4466. Viscount Hutchinson.] I suppose you consider that the Emigration Clauses would require some rearrangement? Quite so.

4467. Earl Stanhope. You are aware, are you not, that there has been hardly any operation under those clauses? I believe (0.1.)

28th April 1882.1 I believe there has been none. If you will permit me, I would like to say that I think there should be some amendment as to the Board of Works rules in relation to advances to tenants for improvements. They will not lend less than 100 % at the present time. I think the limit of 100 % is a mistake, and that it should be reduced. I also think that the period should be extended to 35 years, as in case of loans under the Land Improvement Acts; and I do

not think there should be the limit of five years of Griffith's valuation, Adjourned.

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PPENDIX.

APPENDIX A.

PAPERS handed in by Mr. Donis Godley, 7 March 1882.

LAND LAW (IRELAND) ACT, 1881.

COURT OF THE IRISH LAND COMMISSION.

GENERAL ORDER, dated this 19th day of October 1881 (one).

It is ordered that, owing to the pressure of husiness, applications to get the benefit of the 60th section of the Act on the first occasion on which the Court sits, he designated by a symbol or stamp in the County Book in each case in which a ruling is made, that the same stand adjourned, to he disposed of on a hearing thereof.

COURT OF THE IRISH LAND COMMISSION.

Wednesday, the 19th day of October 1881 (one).

It is ordered that the sitting of the Court, commencing Thursday, the 20th October instant, do extend to and include Saturday, the 29th October 1881; and that was sitting, for the purposes of the 60th section of the Land Law (freland) Act, 1881, he the first occasion on which the Court will sit.

THE IRISH LAND COMMISSION.

It is this day, Thursday, the 27th of October 1881, ordered that the sitting of the Court which commenced on Thursday, the 20th October instant, forming the first eccession on which the Court sits, do extend to and Include Saturday, the 12th November 1881, and that the order, hearing date the 19th day of October 1881, be varied accordingly.

THE IRISH LAND COMMISSION.

LAND LAW (IRELAND) ACT, 1881.

Wednesday, the 9th day of November 1881 (one).

Ir is this day ordered, that Assistant Commissioners who may be appointed from this until the late day of March 1832 inclusive, shall, as hereafter provided, had office respectively for one year from the date of their respective appointments, subject to the provisions of the Land Law (Ireland) Act, 1881.

Provided that the regulations as to tenure of office hereinbefore contained shall not apply to any Assistant Commissioners who may during the period aforesaid be appointed in the room of an Assistant Commissioner heretofore appointed, whose office may become vacant, in which case the Assistant Commissioner shall hold office for the same period as

And it is ordered that the 16th General Order of the 1st day of October 1881 be varied, so far as is necessary to give effect to this Order, but no further-

the person in whose room he shall have been appointed might have done. s H

(0.1.)

LAND LAW (IRELAND) ACT, 1881.

COURT OF THE IRISH LAND COMMISSION.

Monday, the 12th day of December 1881 (one).

It is this day ordered that in all cases in which cause is shown, pursuant to Rule 62, against the transfer of the proceedings from the Civil Bill to the Lead Commission, the notice showing cause shall be served within the time therein limited upon the Land Commission in the usual way by letter addressed to the Secretary, and sent through the post, as well as month to opposite party.

In is this day ordered that the solicitor for the Appellant, in all once where a question of the value of the holding is involved, when giving notice of appeal, do transmit to the Land Commission, together with such notice, the sheet of the "Ordnance Survey Map" showing the holding, and also certified extract from the revised Valuation Books of the lands that are the subject of the appeal.

Dated this 17th day of December 1881.

Dated this 2nd day of January 1882 (two).

In is ordered that from and after this date, in lieu of so much of Rule 22 as provides that the Court may at all times extend the time prescribed by their rules for serving motices, or doing any other act, the following rule be substituted:—

The Court shall have power to enlarge or abridge the time appointed by the rules, or factor with any order enlarging time, for doing any act or taking any proceeding upon cush terms (if any) as the justice of the case may require; and any second enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

Dated the 5th day of January 1882.

(A.)

	 _	 -	

COURT OF THE IRISH LAND COMMISSION.

ORDER FIXING FAIR RENT.

Armatoru	 -	
Tenant		
County of	 	

Record No.

The Tenant having duly served on Originating Notice of an application to the Land Commission for an Order fixing the fair reat to be paid for the holding therein mentioned, the description of which holding, as stated in such Notice, is contained in the Schedule endorsed serven.

We, the undersigned, forming a Sub-Commission, after hearing the parties, and having regard to the interest of the Landlard and Atomat respectively, and considering all the circumstances of the case, holding, and district, do hereby fix and determine that the fair rent of the said holding is the annual sum of

And we do further order that

The said above

And we do certify that the Landlord, at the bearing, required that the right of sporting, as mentioned in the 5th section of the Act, should belong exclusively to him.

Dates sing	any or	

HOLDING-

County.	POOP LAW CHURC	Electoria Divient.		
Name by which Lands are known on Ordnance Survey Map	m}			
Area in Statute Measure.	Reut of Holding.	Gress Poor Law Valuntie		

(0.1.)

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APPENDIX TO REPORT FROM THE

LAND LAW (IRELAND) ACT, 1881.

(B)

COURT OF THE IRISH LAND CORMISSION.

ORDER BIXING PAIR RENT

Landlord Tennet

County of

Record No.

The Temant having duly served an Originating Notice of an application to the Land Commission for an Order fixing the fair rent to be paid for the holding therein mentioned, the description of which holding, as stated in such Notice, is contained in the Schedule endorsed hereon.

We, the undersigned, forming a Sub-Commission, after hearing the parties and leaving regard to the interest of the Landlerd and Tenant, respectively, and considering all the circumstances of the case, holding, and district, do hereby fix and determine that the fair rent of the said holding is the annual sum of

and having regard to the fact that the application was made on the first occasion on which the Court sat after the passing of the Act, and was adjourned until the hearing before us, we, having considered the matter and deeming it just so to do, further dediare that this Order shall be of the same effect as if it had been made on the first day on which the sail Act came into force, and that the Tenants shall be in the same position, and have the rame rights in respect of his tenancy, as he would have been in and would have have had if the application had been made on the day on which the said Act came into force. And we do hereby further order that

And we do carrify that the Landlord at the hearing required that the right of sporting,

as mentioned in the 5th section of the Act, should beloog exclusively to him.

Duted this day of 188

HOLDING...

County. Electoral Division-Poor Law Union. · Name by which Lands are known? on Ordnance Survey Mun

Gress Poor Law Valuation. Area in Statute Measure. Rent of Holding. d. £.

LAND LAW (IRELAND) ACT, 1881.

COURT OF THE LAND COMMISSION.

County of ______

Order

Landlord_ Tenant

paid for the hold in the County of this day for he	awing duly served m Originating Notice dated the perpendicular to the Land Commission for an Order Enging a fair rest to be ing therein mentioned in the Lands of
pay to the Land of the proceeding	iss the said application out of Court, and do Order that the Tenant do ford the sum of £ as and for his costs ga herein, and of this bearing. day of
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	(D.)
	LAND LAW (IRELAND) ACT, 1881.
	COURT OF THE LAND COMMISSION.
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188, of an ay paid for the hold in the County of day for hearing appearing	
withdrawn.	ereby Order that the said Originating Notice and Application he
Dated this_	day of188

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(E.) LAND LAW (IRELAND) ACT, 1881.

	COURT OF THE LAND COMMISSION.
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	Landlord
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	County of
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we do he	reby order that the said Originating Notice and Application be withdrawn.
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	LAND LAW (IRELAND) ACT, 1881.
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The Trans having served an Originating Notion should be be more as the property of the country of the day for hearing before us have all explosion having from intend, and of the property of

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	Dated this	day of	188





LAND LAW (IRELAND) ACT, 1881.

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Toysland of		·	
Names of Watasses and Description of Documents Broadred in Eridmon.	м	INUTE OF ORDER	L
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Poor Law Union		Name of Tenant,	actor events.
Tecant's Solicite	17,	Electoral Division.	
Name of Lendlo	rd,	Landlord's Solicite	86
Townland of		·	
Names of Witnesses and Description of Documents Received in Eristence.	2	INUTE OF ORDE	R.
	Acreage (standing Nation, A. Acreage (standing Nation, A. Acreage (standing by consent), Value of Verance, £. : Present Rent, £. : : Coale days, Coale, Labourers' Cottages, &c.,		un in Originating Notice, un in Originating Notice, in (admitted by consent), i the symble,

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Town to which Care was heard, Date of Order

LAND LAW (IRELAND) ACT, 1881.

	County Cou	County Court for the County of Townland of					
				-			
fame of Tenant,	Temat'	s Solicitor,		Where the Care in ADJOURNED, WITTE-			
lame of Landlor	Landle	rd's Solicitor,		or Hany Fixen,			
Nemes of Witzenses, and Description of locuments Becoived in Epidence.		MINCON	OF ORDE	R.			
		A & E			2. 1. 4		
	Acreege, per Originating Notice	1 4	Tenescent Velual	ion in Originating Notice	5 9		
	Acresgo (admitted by consent),	1 1	Tenement Valent	ion (admitted by consent),	7 4		
	Value of Tennacy, £.						
	Present Bent, g. :		Judicial Rest -				
	Date from which payable,		Gale days,				
	Costs,						
	Labourers' Cottogen, &c.,						
	Sporting Rights.						
	Other Conditions,						
		(Copy) 8	igneters of Court;	Court Judge,			
- 1		1	ewn in which Case	was beard,			
		1	use of Order,				

Clerk of the Crown and Peace for each County.

SUGGESTIONS by the COMMISSIONERS for the guidance of the SUB-COMMISSIONERS.

- Ir shall be the duty of the Legal Commissioner to keep a book in which all the proceedings of the Sah-Commission shall be entered, and especially be chall make a note of the substance of the evidence given before the Sub-Commission.
- 2. Where a number of cases are for trial at the same place, and the holdings are under the same handlerd, and seem to present the same features, the Legal Cosmissioners may ask the professional men engaged for the parties, whether they consent that the cases should be tried together, and, in case of their so consenting, an order may be made that the cases should be tried together. This causes way lead to great arting of time.
- 3. The Sub-Craministoners may hear the orience before or after they view the bodding, as in each case they does not best. They aboud in visitings the holding be accompanied by no more than two persons, in addition to the professional parts, meanly, one on behalf of the handlend, and the other the tensary or enous person min is behalf, in occasion of visiting the holding, not to premi statements to be made in the mature of widence buring on the merits of the cause.
- 4. Where a point of law is raised, the Legal Assistant Commissioner may in his discretion either decide the question, leaving either party on appeal, if a rolfstead, or the Sub-Ommissioners under the direction of the Legal Assistant Commissioners may reserve the point for the adjunctation of the Commissioners, and go on to decide the meetie of the case, subject to the judgment of the Commissioners on the point reserved. In the latter case, subject to the judgment of the Commissioners on the point reserved. In the latter Commissioners and property of the facts and evidence upon which the question naive.
- 6. Defer supporting an independent valuer, pursuant to Rection 48, 800-berriers 4, and 200 berriers 5, and 200 berriers 5,
- 6. As regards the question of costs generally, it must be left to the discretion and good sense of the Sub-Commissioners. In determining the costs they will be naturally governed in a comiderable degree by the conduct of the landbord and tenant respectively, and by the result arrived at, braing reference to such conduct.
- 7. There is another important and deliaste matter to which the Commissioners would remove should be considered with the contrast direct attacks. The Commissioners who electrical to their or one on, when they provide to the commissioners are considered to the commissioners of the contrast proper and the commissioners of the contrast prices, and it is the tone restorted accessory by the people electromates of Lexical, and by the emploies which constitutes arise among the body of the people, that problem is the contrast prices and the contrast prices are considered and contrast prices. The desired problem is a supplicion denicion may be infraenced by present and social constitutions. It is desirable to write even the alightest relative of such a surplicion, and the Commissioners here Commissioners the commissioners are considered to the commissioners and the commissioners are considered as the contrast contrast the contrast contrast and contrast contrast contrast and contrast co
- 8. The Commissioners also desire to call the attention of the Sub-Commissioners to the provision of the 19th section of the Act, regarding labourers' cottages. That recion curpowers the Court, on application to fix a judicial rent, to impose upon the teams, when kecossary, conditions as to improving existing, or building new cettages for the scoremodation of labourers.
- If in proceedings for fixing a judicial rent, either the landlurd or the tenant, or any person interested on behalf of the labourers, about mention to the Court that a necessity exists for building or improving labourers' cottages, the Court should make careful (0.1.)

inquiries into the matter. Even if no one should mention the matter, we (the Commissioners) think it right that the Court should, in the interest of the labourers, of its own motion institute inquiries on the subject. It would, of course, be a great saving of time and trouble if any party were prepared to submit a definite scheme to the Court that such a should not be considered essential, if sufficient be stated to show the Court that such a necessity in fact exists.

If the Sub-Commission should come to the conclusion that a provision should be made, the precise terms should be embedded in the order fixing the juddless reat. The compliance with these terms will not of course constitute a condition precedent to the fixing of a judicial rent, but it will be obligatory on the tenant, and may be enforced by process of the Court,

9. The Registrars to the Sub-Commissions should forward each day to the Secretar of the Commission in Dublin a list of the cases adjudicated on, accompanied by the file in each case, and stating, as far as possible, when the place of sitting next in advance will be reached.

When cases have been adjourned with or without terms as to costs or otherwise, or have been struck out for non-appearance, failure to prove service, the order should appear as a distinct adjudication, and all such orders should be forwarded daily. In no other way can the County Books at the office be regularly kept or the record disposed of.

APPENDIX C

PAPER handed in by Mr. Denis Godley.

THE IRISH LAND COMMISSION.

ten. The Irish Land Commission hereby forms and appoints a Sub-Commission for a, which shall consist of the following Amistana Commissioners, namely:

The Irish Land Commission delegates to the shove-mentioned Sub-Commission power base, decide, and nake orders in the nease matter for "Land Law (Trehnd) Act, 1881," which may from time to time he referred thereto by The Irish Land Commission for decision; and firmerh delegates to the Sub-Commission of power (except as to appeals) which The Irish Land Commission Itel gonomes for the purpose of hearing, deciding and naking outlets in all such cases as aforesaid.

The powers hereby delegated shall be in force until the making of an order varying or rescinding these presents.

The rescinding of these presents shall not, unless otherwise ordered, projudice any punding case, but it may be continued and dealt with by any subsequent Sah-Commission as if these precents had not been receivable.

The Irish Land Commission reserves power in case of sickness of any number or members of a Sub-Commission, or for other sufficient reason, to appoint any other duly qualified person or persons in substitution for any present or fature number or members thereof, and no pending proceedings shall ahate or he in any way affected by such substitution.

APPENDIX D.

PAPERS banded in by Mr. O'Brim, 21 March 1882.

THE IRISH LAND COMMISSION, 24, UPPER MERRION STREET, DUBLIN.

EMIGRATION.

Sir,

With reference to your application, I am directed to inform you that the Land Coministioners are not empowered to treat with private persons.

They can only do so with persons representing a State, or a Colony, or a public body, on the conditions named in the Section of the Land Law Act printed below.

Your obedient Servant,

Denis Godlen.

odley,

Secretary.

To

32. The Land Commission may from time to time, with the concurrence of the Treasury, and on being satisfied that a sufficient number of people in any district desire to emigrate, enter into agreements with any person or parsons having authority to contract on behalf of any State or Colony, or public body or public company with whose constitution and security the Land Commission may be satisfied, for the advance by the Commission by way of losn, out of the moneys in their hands, of such sums as the Commission may think it desirable to expend in assisting emigration, especially of families and from the poorer and more thickly-populated districts of Ireland. Such agreements shall contain such provisions relative to the mode of the application of the loans and the securing and repayment thereof to the Commission, and for securing the satisfactory shipment, transport, and reception of the emigrants, and for other purposes, as the Commission with the concurrence of the Treasury approve. Such loans shall be made re-payable within the periods and at the rate of interest within and at which advances by the Board of Works for the purpose of the reclamation or improvement of land are directed by this Act to be made repsyable: Provided always, that there shall not be expended by virtue of the authority hereby given a greater sum than two hundred thousand pounds in all, nor a greater sum than one-third part thereof in any single year.

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LAND LAW ACT (IRELAND), 1881 .- PART V. TENANTS to cuable them to Purchase their FARMS.

SUMMARY of the TERMS and COMPITIONS upon which ADVANCES are made to

A tenant may agree to buy his holding from his landlord:

(1.) By paying the full price, or, as the Act calls it, a "principal sum."

(2.) By paying a fine and baving the rent of his holding reduced till it is not more than three-lourins of a fair rent, and obtaining a fee-farm grant, that is, a lesse for

The Land Commission may, if satisfied with the security, lend the tenant three-fourths of the "principal sum" or half the fine paid.

The amount advanced must be an even sum without shillings and pence.

On the occasion of a purchase it is not necessary that the landford should receive a cash payment from the tensant; be may, if he chooses, leave each portion of the price as is not advanced by the Commission outstanding with the tenant as a loss neps seek terms as the

parties may agree upon; but the loan made by the Land Commission must be the first charge on the bolding.

Before making any advance the Land Commission must approve of the terms of the Advances made to tenants by the Land Commission must be repaid by half-yearly

payments, calculated at the rate of 5 per cent. per annum for 35 years, or 1 a. a year for every pound advanced.

By these payments interest and principal will be paid off in 35 years, the rate of interest at which the money is advanced being 34 per cent.

The days on which the half-yearly payments must be made are 1st May and 1st November, with an apportionment of the first and last payments if necessary.

The Land Commission will, at any time, be prepared to accept payments on account of the principal sum lent from tenants who may desire to make such payments with the object of reducing their annual instalments.

For Example:—If the price of a holding be 400 L, the Land Commission may advance 300 L, which will be repetit in 35 years by half-yearly payments on let May and let November of 7 L 10 s. each.

The tenant will have to pay down the other 100 L, unless the landlord leaves it on mortgage, in which case the tenant will have to pay the landlord whatever interest

may be agreed upon. If the remart, after baving paid to the Land Commission 7 l. 10 s. half-yearly for 10 years, pays 50 l. on account of principal, bis future half-yearly payment to the Land Commission would be reduced to 5 l. 19 s. 8 d.

If be pays 100 l. on account of principal, his future half-yearly payment would be

reduced to 4 L 9 s. 2 d.

A tenant may redeem his annuity, that is, pay off the entire loan at any time.

The Land Commission may, on the application of either landlord or tenant, negotiste the sale of estates or boldings. The Land Commission may buy estates to re-sell to the tenants, making advances in the same way as above explained to enable tenants to buy their boldings.

"An estate" means any lands which the Commission declares fit to be purchased as a separate estate.

Before buying an estate the Commission must be natisfied that three-fourths of the tenants, paying not less than two-thirds the whole rental, are able and willing to hay their holdings.

Residues of estates not sold to the tenants may be sold to the public, the Commission lending the purchaser half the purchase-money.

The price at which any tenant agrees to buy his bolding from the Land Commission

When a teams processor many terms are set to may no bound grown of Link Commission will include all expenses compended with the purchase and conveyance.

No separate charge will be made for these transactions.

When a teams purchases from a handlord the transactions, and the set of the mort-gage securing the annuity in repayment of the advance he obtains, unless it is agreed that the lord-lord are however the securing the securing the same of the securing the securing the securing the same of the securing the securing the same of the securing the s

landlord is to bear the expense. Where an estate is for sale in the High Court of Justice (Land Court), and a competent Where an estate is for sais in the High Court of Justice (Land Court), and completes number of tennis on any lot are able and willing to buy their holdings, any one tensat may apply to the Land Cammission on behalf of the other tenants to purchase the estate, for forms of application for advances, and for any information required.

(0,1.)

When

When a tenant wishes to purchase his holding himself in the High Court of Justice (Land Court), he may apply to the Land Commission for an advance before or after he

is declared a purchaser. In such cases the sdrance from the Land Commission must not exceed two-thirds of the value of the holding, as assessed by the Land Commission, and in no case will the amount advanced exceed three-fourths of the price of the holding.

A tenant purchasing in the Land Judges' Court will have to obtain the conveyance ned

charging order at his own expense.

Attention is called to the following conditions imposed by the Land Law Act (s. 50) pon every holding so long as it remains subject to the annuity in repayment of the Lond Commission's ndvance:-

(a.) The holding shall not be emblivided or let by such proprietor without the consent of the Land Commission until the whole charge due to the Land Commission has been repaid :

(a.) Where the proprietor ambdivides or lets any holding or part of a holding in contravention of the foregoing provisions of this Section, the Land Commission may cause the holding to he sold:

(c.) Where the title to the holding is divested from the proprietor by hankruptcy, the Land Commission may cause the holding to be sold :

(d.) Where, on the decease of the proprietor, the holding would, by reason of any devise, hequest, intenteey, or otherwise, become subdivided, the Lend Commission may require the holding to be sold within twelve months after the death of the proprietor to some one person, and if default is made in selling the same, the Land Commission may cause the same to be sold.

The Rules of the Land Commissioners prescribe the fees payable under this part of the Act as follows :

For acgulations between landleed and tenant up to and including signing content - - 10 - per 100 l. of the purchase-money. For subsequent expenses

Including (if contract he completed) conveyance from landlord to tenant, mortgage to Commissioners, registration, and stamp duty If a landlord offers his estate to the Land Commission, the following fees me payable:

For the expenses up to and including notice by the Commission to the landlerd of their being satisfied to purchase. Together with the subsequent expenses; that is to say, the setual outlay by the Commission in compiting the sale. - 10 - per 100 L

Where it is necessary to value the holding of a tenant who applies for an advance to purchase his holding in the Land Judges' Court, the Land Commission will charge a fee not exceeding 10 s. per cent. on the value to cover my expense incurred.

Every application must be accompanied by an Ordannoe sheet, showing accurately the lands in question. Communications to the Land Commission should be in writing, and need not be

prepaid.

Address-

The Secretary, Irish Land Commission,

24. Upper Merrico-street.

Doblin.

APPENDIX E.

PAPERS handed in by Mr. G. Fattrell, Jnn., 24 March 1889.

REPORT of the Solicitor of the Irish Land Commission on Part V. of the LAND LAW (IRELAND) ACT, 1881.

To the Irish Land Commissioners.

My Lord and Gentlemen,

THE Land Act received the Royal Assent on the 22nd August 1881. The Rules framed by the Irish Land Commission for carrying it into effect were issued on the 1st October 1881. This Report deals with the first three mouths of the actual working of the Act, viz.,

from the 1st October 1881 to 31st December 1881, During this period the advances sanctioned by the Irish Land Commission to enable tenants to purchase their holdings amounted in all to 18,061 L

In the Schedule to this Report I have oct out the particulars of these advance The power to make advances to tenant purchasers is given to the Irish Land Commis-

sion by three several sections of the Loud Act.

By Section 24 the Commission is authorised to make advances to enable tensure to purchase their holdings direct from their landlords.

By Serion 26 the Commission is empowered to purchase an entire estate with a view of re-selling it among tenants, the Commission taking a mortgage for such portion of the tenant's purchase moneys as may not be paid in each. Section 55 transfers to the Commission the powers formerly rested in the Board of Works regarding advances to tenant purchasers, and thus enables the Commission to make advances to tenant who purchase the holdings in the Landed Estates

Court. It will be seen by the Schedule to this Report that, of the application for advances

entertained by the Commission, only one was under section 26. Seven were under section 24, and five were under section 35.

It is worthy of note that, in no instance, has an application been made for advances to

enable tenants to purchase their holdings in consideration of a fine and a fee-farm rent; all the nurchases have been for principal sums. It is likewise to be observed that, in no case, bas an application been made for an

advance in connection with a sale from a limited owner to a tenant. The yeador has invariably been an absolute owner. The sales actually carried out and the advances sanctioned show that the purchase

clauses of the Act have not, up to the present, been extensively availed of. The enquiries made in my department by landledes, by tenants, and hy solicitors is connection with the projected sales, bave, however, heen numerous, and they have enabled me to fixtus some judgment of the causes which have hitherto operated to impose the free working of Part V. of the Act, and of how far these causes may be expected to impose its working in the luture.

In some counties the landkords are willing to sell, but the tenants are not yet disposed to purchase: in other counties the position is reversed, the tenants are willing to purchase, while the landlocks have not made up their minds to sell; but, as a general rule, it may be said that until the fair rents of the tenants' holdings shall have been arrived ut. either by the judicial decisions of the Land Commission, or by arbitration, or by agreement, the sakes from landlords to tenants will be comparatively for the land through its Both parties seem to arrive at the capital or purchase value of the land through its annual value, so that until the annual value shall have been established, shoy have not a

standard by which they are likely to ocue to a hargain for the sale of the holdings. This difficulty will, it may be hoped, gradually disappear according as the fair rents of the tenancies are fixed, and assuming the fair rents to have been arrived at, there is reason to helieve that the sales from landlord to tenant would be both numerous and rapid, provided that there were, as a rule, only two persons having interests in the land, viz., the owner in fac and the occupier.

However, in Ireland, it is not often that the landlord and his tenant own between them the fee simple. (0.1.)3 K A large A large proportion of Irish landlords hold under settlements or wills by which they have been constituted, not owners in fee, but tenants for life, and it has been estimated that, as regards nearly one-third of all the land in Ireland, there are middlemens inter-

vening between the owner in fee, and the occupier Once the fair rent question has been settled, the difficulties which may be expected most materially to retard the rapid creation of a peasant proprietary will, so far as I can see, proceed mainly from the state of the law regarding (a) owners who are tenants for

life, and (b) owners who are middlemen.

The 25th section of the Act of last Session gives to the landlord, who is tenant for life, the power to sell the holding to the occupier, but it gives him no inducement to do so. the power to seil the holding to the occupier, but it gives him no inducement to do so. Unless there has a power of alse preserved in the settlement or will by which the landled has been constituted "tennt for life" (a power which, although very general in English, is not assaully found in Irish settlement), the purchase-money of the holding must be lodged in the Chancery Division of the High Gurri of Jostice, there to be dealt with in the manner provided by the Least Chance Conditional acts. These Acts provide that the money so lodged shall be invested in Government Stock or real securities, and the dividends paid from time to time to the persons who would have been sutitled to the rents. The almost invariable practice is to invest the money in New Three per Cent.

Stock. See how this would work. A., who is an owner not absolute, but only as teoant for See how this would work. A., who is an owner not insolute, but only as tocaut for fife, evails himself of the 3th section to sell to the occupiers inclings which produce an annual rental of 500 L. He obtains, any 30 years' purchase, viz., 10,000 L. The innersy is lodged in the Chancery Division, is invested in Government Stock, and an order is made that the annual dividends he paid to A. during his life, but these dividends would smoom to only 300 L. So that by the transaction the owner would have diminished his income

hy 40 per cent.

I fear that Irish landlords will not be willing, in any large numbers, to incur so serious a diministion of income; and, therefore, I would respectfully arge the advisability of saking for some alteration of the law, with a view of obviating a difficulty which has afteredy hindered sales from knollous who were anxious to sell to tensate who were anxious to purchase, and which I have reason to apprehend will continue to impede

seriously the free working of the purchase clauses of the Act.

So far as I can judge from enquiries made in my department by landlords desirous of selling their entates, and by their solicitors, I believe that the plan most likely to induce limited owners to sell to the occupiers would be one which would enable the capitalized value of the tenancy for life, or other limited interest, to be paid to the owner of it.

An illustration will make my meaning clearer. Take the once already cited. A. is the tenant for life of a fee-simple estate, preducing a restal of 500 L per amount. B., the remainder man, who would be estitled to the whole estate on the death of the tenant for life. A., by virtue of the power given to him by the 26th section, sells the fee-simple of the entire cutate for 10,000 l. This fund, if invested in Government New Three per Cents, would produce annually about 300 l. A. is entitled during his life to receive this 300 L annually.

Assume that his age is 40. By the actuarial tables it will be soon that, at 3 per cent, the precent capital value of A', suitcrest in the fund is — £ 5,143 — £ 5,145 — And the present capital value of B', suitcrest in it is — 4,857 — 4,857 —

Total - - £. 10,000 - -

The relative interests of the tenant for life and of the remainder man respectively in

have reserve interests of the tennet for life and of the romanufor man respectively in the fund weeld, of course, vary according to the age of the tennat for life, but in the case above stated, I think it will be found that A. will be more tempted to rell the setate, by the knowledge that, if he so distrate, he can cleam to have 6,1452, pulls to him in each, than he would be by the prospect of obtaining through the Chamcery Division of the High Courts a sum of 300? Least Parce during his life. he capital sum he might invest in one of many ways which might for him he more

profitable or more desirable than a three per cent. annuity; he might use it in husiness, he might useploy it in purchasing the head interest in land of which at present he is the occupier subject to a rest (for in Ireland there are many men who are landlededs of one seates and tenants of another), he might invest is in land in England, or in the United States, or in the Colonies. I do not contend that, on a cale being made, all limited owners will elect to take the capital sum in preference to the annual dividends, but it seems probable that the majority

of them would do so, especially if they happen to have incumbered their life estates.

Loans on life setates in Iroland are (unless the transaction is a very large one) usually borrowed at a rate of interest not less than five per cent., and if to this rate be added the premiums on the policy of insurance, which is always required as a collateral security, it will be seen that a tenantfor life who would elect to take the annual dividends at three per cent on the invested proceeds of the sale, would be crushed beneath the weight of the interest and premiums which be would be obliged, out of a seriously diminished income, to pay for the remainder of his life, whereas, if he accepted the capital sum, he could pay off the loan and sell or surrender the polary. Suppose, for example, that As, the tennat for life in the case above referred to had.

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life, or so long as the money remained due-(a.) Interest at 5 per cent. (b.) Premium on policy for 1,100 L on his life -31

Total - - -£. 81 N.B.-The policy is always for a somewhat larger sum than the amount of the

losn. This unnual deduction, heavy enough when A.'s income was 500 f. per annum, would become a very grievous tax upon him as an annuitant drawing only 300 L a year from the funds.

It therefore seems probable that on sales being made by the tenants for life, they would, as a rule, prefer to receive the capitalized value of their interest in the proceeds. But there are interests, other than those of the tenant for life, which must be considered. A plan which might relieve a tenant for life by doing an injustice to the remainder man, or vice versa, would be self-condemned. Could the suggested alteration work injustice? Clearly not to the tenant for life, for whether he got a capital sam or a life analyty would depend upon his own option; but suppose that in the case already quoted, A_n , the tenant for life, exercised his option of taking out of the 10,000 t. the sum of 5,1681 in each as the capitalised value of his life tenancy, what would be the position of B_n , the remainder man P of P were both able and willing to commute his re-resisionary right to the 10,000 L in exchange for a present cash payment of 4,857 L, all would be well; hat if B, the remainder man, happened to be a minor or a function of in some other respect under a disability and incapable of consenting, or, if he (as fe fairly might do) at the death of A, how is this right to be secured to him? By the inventment of the death of A, how is this right to be secured to him? By the inventment of the death of A, how is this right to be secured to him? at the death of A., how is this right to be secured to murry one stated for the average 4,857.7 at compound interest, an investment which, if A.'s life lasted for the average duration of human life on the basis of which actuarial tables are calculated, would produce the basis of the base that the difficulty arise. While there OUTSIGN of fullman life on the outside of the control in the contr separately, and it would seem to be bardly fair to impose on the remainder man, without his consent or against his will, the risk of loss owing to this uncertainty. The risk is only in the individual case; there is no risk of loss on an average of a large number of cases, and therefore the principle of insurance could be applied.

In every case in which the tenant for life elected to take the capitalized value of his life tenance, and in which the remainder uan could not or would not consent to commute his reversion, it would seem that, if the balance of the fund, after paying off the tenant for life, were handed over to the Commissioners for the Reduction of the National Debt, or to whatever department such transactions would properly belong to, the State could, without loss, insure to the remainder man, payment of the entire trust fund, at the death

of the tenant for life. If a slight fraction over and above 3 per cent, were necessary to defray to the State the osable expenses in connection with such transactions, a corresponding reduction could

be made from the amount to be paid to the tenant for life. be mode from the amount to be past to the teams for his.
There is an objection which may be guicely vist, has the Statu might hem; swime show
There is an objection which may be guicely vist, and the Statu might believe in region of the
ungested scheme, while he shis and vigorous manny them might elect to take the life
munity, instead, of the capital sum. This objection would equally anyly be all obscures
of insurance, and I aloude think that there ought not to be much difficulty in devining
text by medical examination and otherwise, which would in practice surmount it. That it has been effectually surnounted by insurance companies, founded for commercial profit, many fairly be inferred from the growing number and prospority of those institutions. Of course, in the event of the tenant for title claiming to have the capital value of bid life tenancy paid to him, care should be taken that the trustees of the settlement, the remainder man, and all other persons interested in the fund, should receive due notice before any such commutation would be sanctioned, so as to prevent the possibility of any

There is frequently reserved in settlements what is called a "gift over" on the hank-ruptry of the tennat for life; the effect of which is that, on the happening of that even the interest passes away from bins and becomes vested in someone elso, usually his wife. In such a case it will probably be considered only just that the commutation by the tenant for life should not be permitted without the consent of the person in whose favour the "gift over" is reserved.

injustice being done.

Some such scheme as that sketched above would, I believe, offer greater inducements than any other to limited owners to sell their lands to the occupiers, and would materially facilitate the creation of peasant proprietors in Ireland; but, assuming that it would not be possible to obtain legislative sanction to such a plan, something might be done by a short enactment giving to the Irish Land Commission in the case of sales by finited owners the power to pay over the entire fand to trustees to be dealt with by them according to the trusts of the settlement or will under which the property was held. This power the Commission aircady has by the 71st section of the Lands Clauses Consolidation Act, 1845 (8 Vict. c. 18), where the purchase-money is under 200 L. Something might be (0.1.) 3 K 2

effected towards encouraging limited owners to sell, by thus enabling the trustees of the acttlement to receive the purchase-money instead of compelling it to be lodged in court. because there can be little doubt that the prospect of their money going into Chancery impresses upon ordinary lay minds a sense of desolation such as weighed upon Danto's heart, when, on approaching the Gates of Inferno, he read the doleful lines inscribed above then.

It is to be remembered that by authorising in every case (due notice of course being given to the parties interested in the fund) the Commission to pay over the final or trustees instead of lodging it in Chancery, the Legislature would be doing no more than importing by statute into every Irish settlement that which is expressly contained in the generality of well-drawn English eettlements, viz., a power of sale, hocause where such a power is expressly contained in the settlement under which the lands about to be sold are held, the Commission can under the existing law pay the proceeds of the sale to the trastees of such settlement.

I have reason to helieve that an impoliment to sales by limited owners would likewise he removed by empowering the trustees on receiving the proceeds of any such sale to invest them at the request of the tenant for life in any of the modes of investment which are usually expressly authorised in well-drawn settlements, e. g. Reilway Preference of Debenture Stock, as well as in those which (in the absence of an express prohibition in the settlement) are authorised by the Statute 22 & 23 Vict. c. 35, viz., real securities in any part of the United Kingdom, Stock of the Brak of England or Ireland, or East India Stock.

So far as regards sales by tenant for life.

The next question to which I would ask leave to call attention, viz., "How are the interests intermediate between that of the actual occupier of the holding and that of the head landford or owner of the fee-simple to be extinguished," is an enquiry which is of pressing importance in connection with the rapid creation of a peasant proprietary,

The Land Act of last Session empowers the Commission to advance money to enable the occupier to purchase the interest of his "landlord," by which term is negarable immediate landlord. Nowif this immediate landlord happens to have over him a superior immediate landlord. As we true minemate landlord imprens to have over non a superior landlord, it frequently happens that practically no onle can be made to the occupier at all.

The difficulty will easily be seen from an illustration.

A. is head landlord over an estate of say 200 acres, which he or his ancestors may have leased to B. for ever, or for a long term, at a reut of 60 f. n year. B., or his ancestors, subdivided and sublet the estate among 20 tensus, each pnying rests ranging from 52 to 152 a year, so that in the aggregate B. receives 160 L a year and pays 60% a year. B. now desires to cell to his tenants, who are willing to purchase, but not at high or fanoy prices. He cannot cell without A.'s consent, because A. can, and most likely will, refuse to receive his rent of 60% save in one sum, and an ex hypothesi there is no one of the tenants' holdings sufficiently valuable to bear the entire head rent and to indemnify all the other holdings against it, it is plain that B, must purchase up A, a head resut of 80 L before be can sell to the tensors. A, being thus complete moster of the situation will probably ask for his boad rent a sum considerably beyond its market value, and B, and option will be to pay him that sum or abundon the sale to the tensants. The case will sometimes be reversed, but the block will still continue. It may be that A., the head sometimes be reversed, our the moor will tell continued. It may be task A_1 , too mean smaller, in maximum to sell to the compring tenant, has they cannot buy from him direct, because they could not becrow from the Commission any portion of the purchase-money so long at B_1 , the middlement, statude in the way. It would therefore be necessary for A. to purchase B^* , interest before having any dealings with the cocupying tenants, and D_1 when the coupling tenants are the contract of the contract of the coupling tenants o so the sale to the occupiers will most likely fall through,

This difficulty is no mere theoretic one; already, even in the short period during which the Act has been in force, I have had several cases before me in which contemplated sales to tenants have been abandoned, owing to the belief (whether well founded or not, I cannot say) that the person in whom was vosted the interest, which should be purchased before the sale to the tenants could be effected, would exact for that interest a cum so far beyond

its market value as to reader the sale to the tenants a very losing transaction.

It may be interesting to recall the circumstances under which the enfranchisement of copyholds took place in England, for, in the progress of that operation, the difficulties which I have just adverted to in connection with the extinguishment of middlemen's interests in Irish land, exhibited themselves and were finally surmounted.

The copybold tenure had long proved inconvenient, and there was a consensus of opinion that it would be desirable to take steps for its abolition, by enabling the tenant to become the owner of the lands freed from fines and services, or by enabling the lord to become the

the owner's the lands discharged from the tenancy.

In 1841, an Act (4 & 5 Vect. op. 35) was passed with a view of inducing the lord and the tenant to bargain between themselves so that either party chould purchase out the other.

The result exhibited difficulties exactly similar to those which I have pointed out as impediments to the extinguishment of middlemen's interests. The lord, if anxious to bny ont his tenant, found that the latter, on discovering this anxiety, at once demanded a fancy price for his tenancy; the tenant, if he made overtures to the lord for the commuta-tion of the fines and cervices, discovered that the value set upon them was heyond what he considered them worth, and thus very little was done towards the enfranchisement of copyholds.

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In 1852, a further Act (15 & 16 Vict. c. 51) was passed, which introduced a new grinciple, and with very remarkable results. Instead of trying to indexe the lord tangual with the tenant, and the tenant with the lord, is brought them tegether at once by giving to either party the right to compel the other to concent to the sufrauchisement

in the manuser provided by Section 2, which was as follows:— community in the manuser provided by Section 2, which was as follows:— "In every case where, under the powers of this Act, any level or tenant shall he come cantided to require, and shall require, the confunctionment of any copyhold "lands, he shall give notice in writing, the lord to the tenant or the tenant to the lord, as the case may be, of his desire that such lands should be enfranchised, and " the consideration to be paid to the lord for such enfranchisement shall, unless the " parties agree about the same, he accreained under the direction of the Copylobia "Countissioners, upon application to them in writing in the manner following, viz.
"by two valuers, one to be appointed by the lord and the other by the tenant, and only two volutions of the one appearance by the sour and the other or now comman and another or all delivers, before they proceed, shall appoint an unspire, to whom any points in indepute between them shall be referred; and in case the valuese or unspire, in at the case may be, shall not make their or his decision, and deliver the particular in thereof in writing to the lord and teasant, or the solicitor or agent of such lord and " tonant, within forty-two days after the appointment of such valuers, or after the " matter shall have been referred to such umpare, as the case may be, then the Commis-" sioners shall not un umpire in fixing the consideration to be paid or rendered to the " lord; and in any case where either party shall neglect or refuse for twenty-cight days " after being called on so to do, to appoint his valuer, the Commissioners shall appoint a " valuer for him as soon as may be after the expiration of such twenty-eight days; and " in any case where any valuers appointed under this Act, either originally or in the "In any core waster my variety space of one week after their appointment in lance of any other valuer, shall for the space of one week after their appointment in he usable to agree in the appointment of anob unpire, the Commissioners shall appoint used unspire, and such unpire and large in his award in manner and within the time storesaid, and if he shall neglect or refuse, or on any account fail and the statement of the statem " so to do, the Commissioners shall act as such umpire as aforesaid: Provided " niways, that it shall be lawful for the lord and tenant to appoint one and the same "person is valuer, and in such case the valuations, acts, and award of such single valuer shall have the same effect as the valuations, acts, and award of the valuer or umpire under the provision herein contained: Provided also, that it shall be " lawful for the said Commissioners on application to them in writing by such lord " or tenant, or such ampire as aforesaid, if the said Commissioners shall see fit to

" extend the time within which a valuer may be appointed, or any decision or award " under this Act may he given." The new statute had an immediate effect. The parties who had previously hald aloof from one another, each fearing that any overtones from him would only enhance the price

from one souldne, each leaving that any overthree from him would only schuler (the pre-togeness and the souldness of the souldness of the contraction of the contraction of the The efficacy of the new principle any he judged from the feet that while in the The efficacy of the new principle and he judged from the feet that while in the principle sounds of the principle of the pr of extinguishing middlemen's interests in Ireland, their extinguishment will progress but

very slowly, and their continued existence must prove a serious impediment to the growth a peasant proprietary. It has been suggested that the difficulty occurring in sales from a middleman to his tenants in relation to the rest psyable by the middleman to his head landlord might be met by giving to the Commission the power of apportioning that head rent among the several occupiers about to purchase their holdings. In this suggestion I cannot concur.

The exercise of such a power might work grave injustice.

A head rent of 50% a year, payable in one sum, has a very different value from one of the same amount, but payable in twenty different sums, and collectible from twenty

different people.

The Landed Estates Court possesses this power of apportioning head rents. It was conferred upon that Court by the 72nd section of the Act of 1858 (21 & 22 Vict. c. 72). I find, on inquiry, that so keenly alive bare the judges of the Landed Estates Court been to the hardship which the exercise of the power so conferred on them might entail. that during the last twenty years they have not put it into operation above a dozen times

There are two matters of detail to which, in conclusion, I would ask leave to call tention. One relates to stamp duties in connection with sales under the 20th section, attention. and the other has reference to the reconveyance of the mortgages, given by tenant pur-

chasers, to secure the advances which they receive from the Commission. The Commission can, in the case of sales in the Landed Estates Court, advance money to tensist purchasers, both under the 35th section, i.e. where the conveyance is made from the Landed Estates Court direct to the tensist, and under the 25th section, i.e. where the conveyance is made from the Landed Estates Court to the Commission, and then from the Commission to the tensist. Where the holding is large the advance will insually be (0.1.)

note under the 3th section, because the Landez Bettes Court will, in proposing the created of the state for the, without difficulty such a large holding his to a spearable, so that the unant can hid for it himself. In the case of early landings it is different to the country of the state of

subdivisit the let into biddings, and covery each holding to the tonat of it.

Now in this transaction the Commissions nearedy a conductive form the Lusded Retasts
to the overall tenants, and I respectfully subset that it is a hardship on the tenant party of 10s, per cent on the amount of the purchase-moon of the convergence from the
Lunded Extence Court to the Commission, and a stamp duty at the same rate on the conreprises from the Commission to the newest lemma:

It is a substantial to the commission of the convergence from the correspondence from the convergence from the commission of the newest lemma:

And continued imposition in the continued imposition in the continued imposition in the continued imposition in the continued in the continued

stamp duty of 22, 0.4, per cent, on the mortgage which they give to secure the amount advanced by the Commission.

Regulations regarding the re-conveyance to he given by the Commission to team purchasers when they shall have paid off the amount of the advances made to them are

assignment of the second of the second of the advances made to them are not second or the second of the second of

and to feather parenasers it the provisions contained in the Dallaing Scottles Act of 1377
37 & 38 Vict. 42), with respect to the re-conveyance by building Scottless of mortgages
vested in them were extended to mortgages vested in the Commissioners.

These provisions are contained in the \$2nd scottle, by which it it is enacted as follows:—

"When all moneys intended to be convered many mortgage or further charge
given to a scotisty under this Act, in Engeland or Ireland, have been fully paid or

"When all goossys introdict to be secured by any martingue or further charge six on a notice; under the Arch is longitude or breadth, which we has fully main or a winter to the control of reducing them or to each precess and so one has can at he may first, or a result of reducing them or to each precess and wire at the control of the capital of reducing the control of the contro

FORM of RECEIFT to be endorsed on MORIGAGE.

"The Building Society hereby acknowledge to
"have received all moneys intended to be secured by the within (or above) written
"deed.
"In witness whereof the seal of the Society is hereby affixed this

"day of , by order of the Board of Directors (or Committee of Management) in the presence of "Secretary (or Manager)":

(signed) Geo. Fottrell, Jun.

The mode of releasing mortgages conformed by this section has been obtained. In the first place, if gives an examples of men stemp of the start place of still more value, it relieves the building societies from the necessity of investigating title, with a view of seeing that the re-conveyance of the mortgaged property is not made to the wrong person.

It would be very desirable that these advantages should be satended to the Commission.

Solicitor to the Irish Land Commission...

LIST of ADVANCES sanctioned up to 31st December 1881.

SECTION 24.

COUNTY.			ESTATE.				Number of Tenants,	Amount of Advances Sanctioned.		
										a. s. d.
Westmeath	-		-	Goodbody	-	-	-		1	1,587
ANTEIN -				Boyd -	-				1	1,500
Roscommun	-	-	-	Conry -					1	1,500
TIPPERARY	-			Stoney -					6	9,825
ANTRIN .	-	-	-	White -	-				1	800
WESTMEATH	-			O'Reilly					8	1,180
ROSCOMMON	-	٠		Johnston	-				1	300
						TOTAL			14	8,942 ~ -
	_	_	_		Sec	TION		_		-,-14

	_	_		_	Section	35.	_				_
GALWAY					O'Kelly (Joyce) -			1	990	_	_
Cone -			-	-	Fitzgerald (Mrs. Hay	nes)	-	1	2,500	~	
KILDARE					Best (Shackleton)			1	9,100	_	_
KILDARE			-	-	Bury (Harris) -	-		1	700	-	_
Meath	-	-	-	•	Ennis (Flood) -		-	1	8,000	-	-
					Тота			- 5	8,520	_	_

Section 26.												
Down			-	-	O'Donnell	-				97	1,590 -	-
							TOTAL -			97	1,509 -	-

					SUMMA	RY.			
			Number of Applications	Number of Tenants.	_	_			
					1		£.	s.	d.
Section	94		٠.		7	14	8,942	-	-
29	85				+ 5	. 5	8,590	-	-
	25				1	97	1,599	_	-

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APPENDIX F.

PAPER handed in by Mr. Liton, q.c., 31 March 1882.

(Confidential.)

LAND LAW (IRELAND) ACT, 1881.

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IRISH LAND COMMISSION.

The following Sittings of the Sub-Commissions have been arranged.

Dated 24th March 1882.

					By Order, Denis Go	dley, Secretary.
						Names of Assistant Commissioners.
No. 1.—Counties of Awrana	Liebora		Street 02		That part of Unions of Lisbarn)	
sed DERRY.						
	Belfast	•	24 1 Her	٠	Belfast in Autrim Union of Large	
	Larne	:		1	Union of Aurein	
	Eallymens -	7	22		Union of Bullymens -	
	Hallymoney -	÷	6 Jane		Union of Hellsmoney, partly in	
	Carbendall -		19		Union of Bullycastle	
	Culerates -		2 July	•	Union of Colerains, partly in Autrin and partly is Derry.	
	Mochemist -		10 -		Union of Magherefelt -	
	Linavide -	-	24	:	Union of Limitaly	
	Landonderry .		31 .			
					deny la Dezy.	
No. 2.—County of Down -	Neser		17 April		That part of Union of Newsy in)	
No. 2.—CHARLY IS DOWN	Newy	•	11 April	٠	Dorra.	
	Killord		1 May		United of Kiffeed	
	Descostrick -		15 -		Union of Dovropetrick	
	Newtownerds -			-	Union of Newtoweards	
	Belfast		20		That part of Union of Belfest in	
	Year		3 July		Down. Those ports of the Unione of Lis-	
	Lisbare		a sail		burn and Lungen in Down.	
	Bashidge -	٠	24 ,	•	That part of the Usion of Ban- bottigs in Down.	
No. 3.—Courty of Australia .	Lergin		17 April		That part of Union of Larges in)	
	Arneagh	-	15 May		That pure of Union of Armagh in	
	Newtowsham/ltos		26 June		That part of Univer of Castlebley- ney and of Dursdalk in Arough.	
	Noury		10 July	-	That part of Union of Newry in	
	Tanderagee -	•	7 August		That part of Union of Banbridge in Armagh.	
No. 4,-County of Tracorn -	Strabage -	ı	17 Areil		That part of Union of Strahame)	
					In Tyrese.	
	Carleiery ·	-	1 May	-	Union of Castlederg	,
	Newtowcolewart Owned	1	15 19	:	Union of Goetin	
	Ovegh	•		•	Urson of Ourgh, and that part of Unions of Equishilles and Irrinatown in Treese.	
	Clogher		26 Jace	•	That part of Union of Clopher in Tyrons,	
	Desgannon -	•	3 July :	٠	Usion of Dongeonee, and that part of Usion of Armagh in Ty-	
	Gookstown -	٠	81 ,	*	Union of Cookstown)	

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					Names of Ass Counstains
No. 5,-Counties of DONEGAL	Lifest		IT April .	That part of Union of Strabous in)	
and Permanagh.	Evotern .	-	24 ,, -	Duringal. Union of Inchowers, and that part of finion of Londonderry in Duneal.	
	Lenerkenny -		8 May -	Unions of Lettrokenny, Danfur- agby and Milford.	1
	Stranefir -		21 n	Union of Stratering	
	Gineties Dougsl	- :	19	Union of Dunoral	
	Ballyshyanon -	-	3 July -	Union of Bullyshoraeus, partly in Fermana, in and partly in Done-	
	Pattigos	•	10 ., -	That part of Union of Irrimentums to Fernanceh, and the Blacteral Director of Petiline in County	}
	Hendskillen -		17	Daneyel. Uplee of Eutlickillan	1
	Innakes -			Linson of Liangelon	
	Cloues	-	7 August -	That port of Union of Clence in Permanagh.	
No. 6.—Counties of CAVAN and MONAGEAR.	Carrickmarous		IT April -	Union of Carletonarrows, and that	
	Cudiblarner -		1 May .	part of Union of Durabilk is Hanghan. Thrapart of Union of Contlobaynes	
	., .,	ı			
	Heroghen -			Union of Monaghan, and that yart of Drien of Clogher in Monaghan.	
	Closes	-		That part of Union of Clouse in Monachen.	
	NesoTobor -		12 June -	Union of Hearton, and that pert of Union of Econocilla is	
	Corns		26 , -	Union of Carno, sed that part of Union of Grauned in Carno.	
	Contribili -		to July -		
	Ballieborough -	-	24	Moraghas and partly in Cavan. Union of Hadleboungh, and that part of Union of Kella in Cavan.	
	Virgleis -	•	7 August -	That port of Union of Givenetic is Count.	
No. 7.—Counties of Lacrazia, Beaconston, and	Eullychanage -		17 April -	That part of Union of Bully-) shares in Leitrin.	
Satur.	Massrbaudton		24	Union of Manochemittee	
	Sige Easky	:	1 May -	Union of Sligo	
				Union of Sign Union of Dromers, West, and that port of Union of Sellens in Signs	
	Tehenpury - Boile	:	29 , .	Union of Tubercoary Union of Boyle, purity in Sirge and purity in Reseaschers Union of Carrick-on-Shanners.	
	Cerrick-on-Steam	non	19 Juna -	Unite of Carrick-on-Shunnus, partly in Leitzigs and partly in Researches.	
	Billnamera -	-	26 14 -	Onion of Mobili, and that part	
	Strokestown - Castleron -	1	2 July 10 " -	Union of Strukestown	
4	Bescottenes -		17	Rescuences. That part of Union of Rescommen	
	Athlese	-	Śı, .	in Rescontion. These parts of Unions of Athleses and Belliussion in Rescontinue.	
No. 6County of Mayo -	Sellyhaunte -		IT April	States of Characteria	
	Ballisrobe -	-	1 May -	That part of Useen of Ballinrobe	
	Westport - Castisbar -	:	15	Union of Westpors	
	Newport Briggelleb -	- 3	12 Juen -	Union of Newport Union of Relimpilet	
	Killala				
	Relies			That year of Union of Soiling in	

1							Numes of Assistant Commissioners.
No. 9County of GALWAY .	Ballesathe		17	April		That part of Union of Sallingson)	
No. 1,-court or constraint	Pertunna						
	Longhren Guet		15		÷	Union of Leagueen	
	GUEL .		,,,		ì	Union of Sullyvayhan to Gal-	
	Galway - Oughternal	: :	12	June July	:	Union of Galleay	
						part of Usees of Belliorebe in Galway. Union of Cliffen	i .
	Cittles -	: :	10	29	٠.	Union of Cliffon	
	Gleensmadely		ái	Ju)j	-	Union of Young	
	Mount Bellew		7	Augus	t-	Galway. Unive of Mount Bellew	
No. 10Counties of LYMERICK and CLARE.	Kilmelt - Engletymes	: :	17	April May		Unions of Kilndysert and Kilrash Union of Entisty sees	
	Ballyveghau	: :	15	in in	i	Tent part of Ballywaghan in Clare Untons of Ennis, Correfu, and Talls	
	Limenck-		13	10	•	Union at Cross and Union of Limerick, partly in Clara and partly in Lassonick, and that part	
	Kimaliock		2	July		of Union of Tipperary in Limerick That part of Unions of Kilmallock and Michelstory in Limerick.	
	Bathkeale Newpostle		37				
	Newcoole		93	n		Union of Newcastle, and then part of Union of Giln in Limetick.	
So. 11.—County of KERRY .	Cotowel		17	April		Union of Listowal, and that part's of the Union of Gilin in Kerry.	
	Trains - Uluglo -			May		Treice	
	Diagle - Killurity	: 1	29	Jose	Ė	Dingle	
		: :			0		
	Kennsre -		24	20	•	Keomer	
No. 12.—County of Conx	Maller -		17	April		Union of Mullow, and that part of Union of Klimalicek in Cork.	
	Kessurk -		21	Mer	٠	Kasturk	
	Millstreet Mecroson	: :				Marross -	1
	Denmanusy					Magraes Durmanny Schberes and Riall	1
	Skibbereen Baston				:	Bartra and Constituen	
	Bantry - Cloreskillty		19	2	÷	Bartry and Ossilctown Cloudilly	
	Besion - Kinale -	: :			1		
						Clark	
	Milleon - Youghal -	: :	17	11	1	Midloten That part of Union of Yanghai in	
	Frrmoy -				Э		ĺ
	Mitcheletere	: :	7	Anger		Union of Fernant That port of Union of Municipal town is Cark.	
No. 18.—Councies of Tappun any	Borrisokuna		17	Linga		Union of Berris lane	
and WATERPILE.	Nepagh -	111	1	May		Union of Nesegh	
	Theoles - Timperney				:		
	Cubel -	٠.	20		ĺ	Tipperary.	
	Calles -		8	Jess	÷		
	Carrick-on-B		19		•	Sight in Topperary and in Water-	
	(Soomel -		26			Union of Cloumel, purily in Tip-	
	Clogbeen Liamere -	: :		July	:	Union of Chapters Union of Linners, and that part of Union of Youghe) in Weber-	
	Deegarvan Waterfeel	: :	24		:	ford. Uelect of Diagarvan Union of Elimethereas, and that next of Urice of Waterford in	

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Names of Assistant

							Commissioners.
No. 14.—Cumulton of Dentals and Kildaba, Kino's Country and Quart's Country.	Dublin -			17 April	-	En, South Dablin, that part of Values of Danninsphile and Rathfown in Dablin, and that part of the Union of Cellation	
	Nass -			15 Mag		in Dubbn and Kildare. That part of Unions of Name, Ather	
	Educatory			12 Jac+		and Battireton in Kibiaro. That part of Union of Edenberry in Kildara and Kong's County	
	Tellemore		-	26		That part of Union of Yellamore in King's County.	
	Рагованосте	-	-	5 July	•	These ports of the Unions of Par- censions and Boscon in King's County.	
	Maryborough	-	•	IT p	•	Union of Moustmellick, partly in King's County and partly in Guven's County, and that part of the Union of Athy in Guece's County.	
	Abbeyielx	•	-	31 ,	•	Unions of Abbryleix and Design- nears, and that just of the Unions of Roserva and Carlore is Queen's County.	
Na. 15.—Counties of Lono- rogs, Westmann, Weath, and Lourn.	Loggford Grand -		1	17 April		Colon of Longford, and that party of Union of Ballyunhan in Long- ford. That part of Union of Grannet	
			Ī,	10	•	in Longfoot and Westments.	
	Athlore -	-		29	•	Estymeter to Westmeath. Unions of Mullinger and Delvin,	
	Millinger	•	•	29		and that part of Usins of Tulin- more to Westmooth, and that part of Union of Educatory in Month.	
	Kelh -		-	19 June	-	Those parts of Unions of Olderette and Kells in Mestic.	
	Dundsik -		-	10 July		Tax: part of Union of Denfalls in	
	Drogheda	-	-	17 ~		Utake of Droghods, partly is Mosth and partly in Louth, and Union of Artes, partly in Mosth and partly in Louth.	
	Navso -		-	31	-	Water of Names, and that past of Union of Danstaughlin and Orlheider in Meath.	
No. 16.—Counities of Carlow, Kilkensky, Wex- rons, and Wass- low.	Waterford	-	-	17 April		That part of Unions of Weterfold and Curvish-on-Suir in Kilkmay, and that part of Ucess of Now Russ in Westerd and Kilkenry.	
107.	Kiftensey	-	-	8 May		Union of Castleoner, Kelemay, and Thomastown, and that part of Union of Uclingiert and Cal- lan is Killeray.	
	Westurd - Ensincerthy	:	:	3 June 13 .	:	Unless of Worked Unless of Envisorethy, perky is Worked sed purth in Carlow, and that port of Union of New Boan in Carlow, and Union of Gaury.	
	Carlov -	٠	-	3 July	-	That port of Union of Carlow in Coulow, and Union of Shilleingh, partly in Carlow, partly in Wink-	
	Baltinglass	•	-	17 %	•	That pert of Union of Baltioglass in Wicklow and Conlow, sel that pure of Union of Nam in Wiek-	
	Wicklow -	-	-	31 p		Union of Rothdrem, sed that part of Union of Rathdown in Wick-	

Each Court will hear applications on the First Day of their Sitting as to the hearing of the cases in the List at other towns within the Unions, other than the town above-mentioned, to suit the convenience of parties.

Lists of the Cases to be heard can be obtained from two to three weeks before the date on which the Sub-Commission sits by applying to the Secretary, 24, Upper Merrion-atreet, Dublin.

APPENDIX G.

PAPER handed by Mr. Litton, q.c., 30 March 1882.

FORM of Note of Adjudication by Sub-Commissioner.

		 -
County Carlow.	Appeal, No. 10.	

Landlord.-Henry Mills Bunbury. Tenant.-Hugh Culleu. Townland.-Cranavouane.

Irish Plantation Measure. A- R. P. Area of holding - - - 259 3 11

Rateable Value:-Land -Buildings Total - -Rent -

Situation, -- Five miles from Carlow town, and four from Bagnalstown: both railway stations

Judicial Rent Elevation .- Low and cood.

Aspect. - Good.

Climate.-Good.

Roads.—Good. Fences.-Good.

Soil .- Brown clay of good depth, but rather too many small stones in it.

Waste, -None.

Buildings .- Dwelling-house and offices.

Offices, part slated and part thatched,

Other improvements visible.—Nos. 1, 2, 3, 4, 5, 6, and 7, on map, have been well and effectively thorough drained, which has increased the letting value 10 s, to 12 s, per

Other improvements alleged.—There are some covered drains on No. 1 on map, alleged by the tenant to bare been made by him; they have been made a considerable time, and for want of proper outfall their usefulness is much impaired.

Circumstances.—This is a fine farm, all under grass but one field, and is well watered, fenced, and sheltered, and I estimate its fair letting value at 46 s. per Irish acre, which amounts to 362. 14 s. per annua, but from which I would deduct for reads, 1 s. 2 s.— 3292

Net annual value, 362 L 5 a.

(0.1.)

This holding is well managed, and in fine condition. There is a comfortable residence and offices on this form. Of the offices,

slated and some that led; the whole in good order, and of a character suitable to the bolding. I consider their annual value to be 12 l. Taxes moderate.

(signed) F. W. Russell.

FORM of Note of Adjudication by Sub-Commissioner,

County, Queen's. Appeal, No. 16.

Landlord.—Sir Anthony Wildon, bart. Tenant, Nicholas Fennell.

Townland .- Monobrock.

Nos. 1, 2, 3, and 4.

A. R. P.
Area of holding in Valuation Office - 49 3 26. Original notice 49 3 26

Situation,-Four miles from Athy.

Elevation.—220 to 230 feet. Amount.—West, slight slope.

Climate.—

Climate.

Roads.—Good country read at and of farm where tenant lives, but the 18 seres detached is reached by a circuit of nearly three-quarters of n statute mile by the road. Fences. Fair banks and hedges, old.

Soil,—1, 2, and 3, moor and gravel, very poor; 4-6, poor moory soil; 8 and 9 good if freed from water; 10, 11, 12, about 13 zeros good barley soil.

Waste.—Half road and lane, and part of stream, about 1 rood and 26 perches. Buildings—

1. Slated.—A good cow-shed, 20 feet by 16, built by tsuaut; landlord giving slates

Thatched.—Old house in which tenant's father lived, and old sheds, barn, &c.
Other Improvements.—Alleged drains in No. 1, also in Nos. 5, 8, 7, 8, and 8, bat not
visible on account of two or throe feet of water in the ditches, and these being choked

with wreds.

The tenant is an infirm man, and has no family, and hires a man to work. He says he killed blusself with bard work. There are signs of former industry on the farm-

killed binself with bard work. There are signs of former industry on the farm.

My observations on Appeal No. 15, relating to the sinking of the stream by the landlord apply to this; and in this case, if the stream, as well as the dishna on the farm, were kept clean, the lower part would be worth more than it is, onesiderably.

My valuation of the farm as it is, without adding anything for the slated building is 26 L

28 February 1882.

(signed) C. G. Grey.

APPENDIX H.

PAPER handed in by Mr. Young, and referred to in his Evidence of 28th March 1882, O. 3048

The following has is intessed to overcome the difficulty artising from the solligation theore on the trainer of providing the one-fourth of the purchase meney, under the purchase clease of the Land Act, [881]. It is also hoped that, under the operation of some shape, the comman impide to artisinful, by the immediate relocation given in best reset, in the command of the absence of any obligation other than the payment of the judicial or agreed zent, during the stem of a Government loan.

It is considered that the Stoo, having interfered in the fish Lead question, should go further, and, by the use of its centify and came be done with sally a plantwest or reader correct legislation so little burdessures on any clean, and as beneficial to the general constrainty in 1/2 possible under the circumstances to do; an affirmity in 1/2 entirely to describe the constraint of the constraint of the proceeding of the constraints of the constraint of the c

It is beped that, with such terms offered as now proposed, settlements out of court would be largely promoted, and the "block" now complained of greatly relieved. With the above objects in view the following schoese is proposed.

For the money expected in very time grounding trained in purposes.

For the money expected in very time grounding trained in purposes.

An expected in the property of the property of the property of the individual for the property of the

For example:--

An estate of the annual rental of 500 L, or 25 per cent above Griffith's valuation, reduced by Sub-commissioners 20 per cent, to Griffith's or 400 L. (In this calculation Griffith's valuation is adopted, as the average judicial rents fixed in Ulster are only 2 per cent, above Griffith.)

The position would then be as follows:-

Old rent -500 L. Jušicial rent -400 L. Three-fourths -300 L. One-fourth -100 L.

The landlord having agreed with his tenants, would receive Government Annutities for
State as security.

State as security.

These terminable amultine would be worth, when Concels were at par. 5.77

25.77

Giving the purchaser 3 per cent for his money, and 4 per cent. for redesigned to the for redesigned to the for redesigned to the fore redesigned to the foreign and the fo

of the loss of 100 L in his original rent.

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age digitised by the University of Southampton Library Digitisation Unit

Under such an arrangement-The tenants have simply to pay the judicial rent for 62-3 years, after which they have the property at a nominal rent.

The landlerd, by the greater interest he can obtain for the proceeds of his terminable annutiles, is recomped for a large portion of his less. It is true his lands become mort-aged to the State, but he is, enabled to pay off all other excumprances. (To enable

limited owners to reap the full advantage, they should be empowered to invest in Colonial as well as Home Government securities.) The State has ample security for the loan, as it would have the total rental, wherewith

to make good payments amounting to but three-fourths of the rents, and it avoids all direct dealings with the tenants.

And further an arrangement of this nature-

1st. Holds out an inducement to landlerds to continue their residence in the country, and to occupy their own demesnes.

2nd. It continues vested in the landlord the legal estate, royalties, &c., including bog and mountain land, and anch lands as are ordinarily included in the term waste-lands with which otherwise it would be difficult to deal; and

3rd. It places the increase of National Debt in the desirable form of Terminable Annuities. John Young.

6 April 1882.

APPENDIX I.

PAPER handed in by Mr. Verson, 25 April 1882.

IRISH LAND COMMISSION.

LAND SALES DEPARTMENT.

RETURN of APPLICATIONS for ADVANCES under Sections 24, 35, and 26, up to 20th April 1882.

Section.	Number of Applications,	Number of Tenants Embraced.	Restal.	Parchase Monsy Agreed upon.	Advances Applied for.	Advances Sanotioned
			£,	£,	£,	£.
24 and 35	60	142	5,926	112,259	81,180	44,694
25	3	41	246	4,788	3,805	3,305
TOTAL -	62	183	6,172	117,037	84,485	47,999
_						

There have been also two applications by landlords to the Land Commission "to negotiate" the sale of their estates to the tenants thereof, viz :-

One respecting an estate in county Kerry, embracing 309 tenants, and with a rental of 4,146 I. This application has however been withdrawn, the prices offered by the tenants for their holdings not being considered sufficient by the landlocd.

The other application is with reference to an estate in Queen's County, embracing 31 tenants, and with a rental of 1,046 L. In this case also the tenants' offers are considered insufficient by the landlord.

	Number of Applications.	Rental.	Purchase Money.	Advances applied for.	Advances Sepeticaed.
		£.	£.	£.	£.
Applications in which advances have been sanctioned.	44	3,607	69,863	51,517	47,990
Applications which have been refused.	10	1,296	20,413	14,974	-
Applications under consideration	8	1,819 -	26,752	18,094	_
Total	69	6,172	117,037	84,485	47,090

Of the total number of applications, viz.: 62, which have been received up to the present, 10 have been refused as not coming within the meaning of the Act, or on the grounds that the accurity offered was not deemed sufficient. In 44 cases the advances applied for have been wholly or partly sanctioned, and the remaining eight cases are still under consideration. In some cases where advances have been sanctioned the sales are not likely to be com-

pleted; the advances sanctioned being deamed insufficient, or the vendor being unable to perfect his title. In some few cases the loans have been applied for, and sanctioned conditionally upon the applicants' hids being accepted by the Land Judges.

(0.1.) 2 M

APPENDIX K.

PAPER handed in by Mr. J. Young, 28 April 1882.

The following plan is intended to overcome the difficulty arising from the following throws can the train of providing the one-fourth of the purchase means, maker the purchase clauses of the Land Act, 1831. It is also hoped that, mader the operation of the consequence of the contraction of the contraction of the contraction of the contraction of the rest, the propective advantages in the future, the absolute fairly off tenure provides, that the contraction of dovernments to them the payment or the judicial or speech run, duning the turn of dovernments to them the payment or the judicial or speech run,

It is considered that the State boring interferred is to Drib Land question, about journey, and the private, and by the ore offs receilin; if some he does with suffer, coloratory termine recent legislation as little hardenesses to any class, and as beneficial to the general community as it justifies leader the construction to large and further, it is deschool, not be consuming as it justifies to the construction of the country, and shall in some memoring, this can be done without loss of the State, be comparated for the loss flat headership, as a class, along that the state of the country, and shall in some memoring, this can be done without loss one State, be comparated for the loss flat have consistent in related in some, and almost tool enfonction of an open market value have been also as the consistency of the country recently applicable to be the consist.

It is hoped that with such terms offered, as now proposed, settlements out of court would be largely promoted, and the "hlock" now complained of greatly relieved.

With the above objects in view, the following scheme is proposed:-

Permit a Government office, through the Black of Ireland, to issue on application, estimation; principlent, annuitate terminable 62-3 years, to shadron for three-fourth-starting or the starting principlent, annuitate terminable 62-3 years, to shadron for three-fourth-fourths of a rest agreed upon between halfded not team; of a farm or estate so to deal with, upon condition that the landlered grants to the tensal or tensate losses in deal with, upon condition that the landlered grants at consistent to the starting principlent and one-fourth the justical or agreed reat, and valoritakes to collect and pay to the Government that three-bordraf of same during the 62-3 years.

For example,

An estate of the annual rental of 500 L or 25 per cent, above Griffith's valuation, reduced by Sub-Commissioners 20 per cent, to Griffith, or 400 L (in this calculation Griffith's valuation is adopted as the average; judicical rents fixed in Ulster are only 2 per cent, above Griffith).

The position would then be as follows:

Old rent	-	-					-	-			500
Judicial rent		-	-	-	-	-		-	-	-	400
Three-fourth	3.	-					-	-			300
One-fourth	-				-	-	-	-		-	100

The landlord, having agreed with his tenants, would receive Government annuities for 300 l, terminable in 62-3 years, for which he would pledge his whole property to Estate as accurity. These terminable namnities would he worth, when Contols were at par, 28-57 years 'gurchase-"

Giving the parambars 3 per cent, for his money and 4 per cent, for relengation.
The lendiced could obtain 4 per cent, for this amount, produce.

The lendiced could obtain 4 per cent, for this amount, produce.

To which the Judicial rent.

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of the less of 100 % in his original rent.

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Under such an arrangement the tenants have simply to pay the judicial rest for 62-3 years, after which they have the property at a nominal rest.

The landlord by the greater interest he can obtain for the proceeds of his terminable amounties, is recomped for a large portion of the lost. It is true his lands become mortgaged to the State, but he is reached to may of all other exemelmences; (Co enable limited owners to reany the full advantage, they abould be empowered to invest in Colonial as well as Homes Government securities.

The State has ample security for the loan, as it would have the total rental wherewith to make good payments amounting to but three-fourths of the rents, and it avoids all direct dealings with the tenants.

And further, an arrangement of this nature-

1st. Holds out an inducement to landlords to continue their residence in the country and to occupy their own demosnes.

2nd. It continues vested in the landlord the legal estate, royalties, &o., including bog and mountain land, and each lands as are ordinarily included in the term wastelands, with which otherwise it would be difficult to deal; and

3rd. It places the increase of national debt in the desirable form of terminable annuities.

(0.1.)

APPENDIX L.

PAPER handed in by Mr. Stanislans Lynch, 28 April 1882.

LAND LAW (IRELAND) ACT. 1881.

EXTRACT from RETURN showing Number of Years' Purchase of certain Classes of Returns & Years 1865 to 1878, both inclusive.

- I. RETURN showing (L) in PROVINCES, and (IL) in COUNTIES, the LANDED ESTATES held either in Fee, Fee Farm, for Lives renewable for ever, or for Terms of Years of which 60 shall have been unexpired, add in one or more Lots in the Landed Estates Court for each of There Years prior to 1870, and up to the 1st of August 1870; and similar RETURN for the remainder of the Year 1870, and for each of the Five Years emiting 31st December 1875, and following Years up to and including 1878; giving the following Particulars in each of the
- foregoing Periods :-3. The Name of the Estate. 7. The Profit Rent.
 - The Tennre of each Lot. The Acresge, Statute Measure, of each Lot.

- 179 81

- 8. The Poor Law Valuation of each Lot Sold. as set out in the Rental filed in the Landed Estates Court.
- The Amount of Purchase Money. 10. The No. of Years' Purchase.

SUMMARY (A.)-Showing the Average Number of Years' Purchase in each Province for each Year embraced in Return No. I., and Average Bate for all Ircland.

1871 1879 1879 1874 1875 1876 1877 1878 a

									31 Aug. 1670.	1970.								
ULSTER -	-		-	228	22	22	258	24}	215	24	29	\$22	200	\$2	222	13	24]	16
MUNSTER			-	174	19	92	201	101	173	174	204	51	200	20	19‡	21	22	23
LEINSTER				21	21 1	215	101	24	22	234	13	94	231	99	194	23	221	22[
CONNAUGHT			-	161	20	90	191	17	90	19	22	12	10	175	248	225	19]	198
Ave	KA4	e Sw AND	-1)	20	305	21	221	21.5	292	21	201	224	191	102	101	254	223	231
		_	-	_	_	_	_	-			_	_	_		_	<u>'</u>	_	-

SUMMARY (B.)-Showing the Average Number of Years' Purchase in each County for each of the

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-	OU	NT	τ.		1865.	1996.	1867.	1888.	1929	To tet Aug. 1870.	Prem 1st Aug- 1870.	1871.	1872.	1850.	1874.	1875.	1976.	1677.	1858
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Autrim				-	24	204	25}	23	25	-	84	26	-	26	221	16	28	15}	20
дзяны			-		18	19	191	-	14	178	-	-	23}	24	213	16	17	243	-
Cavan		,		-	18	32	20	27	231	54	20	30	31	17	90	214	23	25	223
Denegal			-		80	17	255	215	23	185	i -	37	-	-	27]	25]	59	19	24
Deva	-			-	10	23	19]	262	221	21	-	252	20	27	22	201	23	252	254
Fermane	b			-	34	21	231	-	255	27	-	33	161	204	23	201	24	94	27
Londonie	777				21	22	24	20	0.5	94		En.	93	00		105	215	98	23

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co	0 2	TY.			1963.	1600.	1867.	1868.	1869.	7e 1 Aug. 1870.	From 1 Aug. 1670,	1871.	1972.	1873	1874.	1875.	1896.	1807.	1870
				-		-							_						-
MUN	STE	В.;																	
Clare -	•	•	•	-	21	20	17	22	36	24	-	181	19	23	87	-	262	281	991
Cork -	•			٠	10	101	10	50	385	17	18	21	25	18	16 }	19	23}	211	12
Kerry -			•		16	93	23	58	13	-		1.5	22	215	173	03	13	21	275
Limerick		-			154	205	23	301	51 t	173	-	185	22	181	20	245	25	22	23
Loperary	-				17	12	20	220	100	22	173	208	171	215	21	194	20	23	203
Waterford.					151	17	100	101	16	30	-	22	191	-	21	22	51	13	59
LEAD	DEE	R:																	
Curley			-		25	181	17	-	23	93	24)	24	-	16)	25	215	225	195	201
Duklin			-	-	211	161	22	29	- 1	94	-	-	18	223	20	202	23	15}	201
Kildere					123	175	21}	361	287	202	-	223	15-5	21	194	22	22	221	1-
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King's Co	enty				224	201	24	23	24	18	-	914	194	24	223	20	94	22	90
Longicol					20	223	24	-	25	~	23	19	21	39	19	51	252	23	-
Louth -					21	24)	20	20	285	220	-	203	13	184	-	27	22	203	188
Month					14	90	161	221	25	39	22	21	309	25	27	238	30	101	151
Queser's C	cent	-			17	33	93	18	22	16	-	21	23}	-	23	23}	22	211	247
Westmont	ķ.,	٠.			20	225	175	25	17	243	23	26	16)	23	99	21	23	253	284
Wexiced					20	23	214	25	245	28	24	-	20	901	20	21	92	83 }	164
Wicklow		-	-		81	18	21	184	18	363	53	25)	23	-	26	951	252	503	471
CON	MAD	GRT			1				Ш										
Galmay					15	112	18	913	188	28	908	19	23	18	16	22	23	18	173

92 SUMMARY (C.)—Showing the Gross Acreage, Profit Rent, and Purchase Money for each Year

93 164

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215 94 20 163 21 21

20 81 125 265 26 28

of all Estates embraced in Return No. L.

Y	EAJ	2.	Acres	ge.		Profit	Res	st.	Perchan	Мо	ng.	¥.	EAS		Acres	ıçı.		Prof:	Bee	rt.	Parchure !	ii se	my.
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1166			67,594						768,959		-	1872			61,102	0	194	34,684	5	0	770,717	8	8
1867			188,086	3	18	39,651	0	2	825,350	14	ŧ	1878		-	120,085	8	39	55,683	19	3	1,063,728	-	-
1868			51,773	0	7	24,834	4	4	545,215	-	-	1874		-	80,029	8	27	42,090	17		687,352	8	-
1860	-		89,110	:	37	20,457	12	4	860,977	10	4	1875		-	67,048	1	12	20,351	ŝ	â	902,655	18	4
1st A	Log	test	41,498	9	23	33,045	14	δ	407,719	-	-	1676			89,084	3	28	10,007	14	8	1,175,037	10	2 20
Rema	tus	er od 870.		á	87	9,070	-	2	610,660	-	-	1872 1878		:	78,944 54,975		90 95	45,569 50,079		8	1,094,860 194,891		

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RETURN as to Sales in the Landed Estates Court.

SUMMARY (A.)—Showing the Average Number of Years' Purchase in each Province in Lebund, of Essats beld either in Fee, Fee Farms for Lives, renewable for ever, or for Terms of Years, of which Sixty shall have been unexpired, and the Average Rate for all Ireland.

	P	RO V	IN	C E.			1876.	1877.	1878.
Uloyea	-						23	24)	24]
MUNSTER				-	-		91	29	23
LEINSTER							23	218	202
CONTATOR	т	-	-	-	-	٠	225	192	191
Avera		er sil	Inn	AND			294	295	25)

SUMMARY (B.)—Showing the Average Number of Years Purchase in each County for each of said Three Years.

COUNTY 1875 1875 1875 COUNTY 1875		
Autrim - 96 508 20 Carlow - 508 Autrim - 178 544 - Dubin - 53 Cerm - 23 25 508 Killere - 19	1877.	1878.
Armsella		
Cavan 23 25 201 Elliure 19	192	301
CA160 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	135	20)
Descript 30 19 26 Killenny 225	221	-
	21	22
Down 23 25 25 King's 94	20	20
Fermanogh 24h 24 27 Longford 25h	23	-
Lendenderry 27\$ 28 28 Louth 21	905	188
Menaghen 90 16 - Month 30	205	25†
Tyrone 34 '20 23 Quon's 22	211	245
Westmenth 33	991	267
Wexford 22	21}	105
MUNSTER: Wieklow 26\$	25}	479
Ciaro 225 S25 S25 CONNAUGHT:		
Cork 200 200 19 Gelway 20	18	171
Kerry 10 91 97 Labrin 21	175	31
Linestek 20 12 21 Mayo 91	90	18}
Toporary 10 23 202 Resemble 20	19	10‡
Waterfeet 21 25 22 Stigs 26	93	-

RETURN as to Sales in the Landed Estates Court--continued.

SUMMARY (C.)—Showing the Gross Agreage, Profit Rent, and Purchase Monry for each Year of all the said Estates.

,	r B A	R.	-	Acre	age.		Profit i	Rex	t.	Purehsio 3	[pa	7.
1976			7	A. 83,054		p. 58	£. 12,017			£. 1,175,637		d. 10
1077			-	78,944	3	29	45,560	15	8	1,004,830	15	. 0
1878			-	51,975	1	25	33,973	26	1	290,501	9	3

LAND JUDGES OFFICES Revenue of Salon of Local, of Tennets of not less than filley. Term mempood, from her Newmber 1878 to Da N







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ivy	100	Dies				PATRICL					7	w		11	N 90 -		m 10 -	100	77.1	
1794		19444				2 6 Sec. 1		w				-		*	38.37 -		30 - +	64 -	10	
		098	20.5	100																
A Nor	iaee	Girag				Ductor M. Relly						-		b	0.75		#	MH	eq	



470

MARQUESS OF CONTUGUAN'S ESTATE.

			SUMMAB	T OF LOT	8.		
33.00.00	LANDS.	Acresps.	Net Annual Restal.	Gavernovat Volcation	OSSERVATIONS,	Amount of Purchase Notes.	No. of Years' Parchessa.
,	Batro	A 1 1	2 . 4	£ e d.	This los hes been sold .	2 . 4	
61	Dine	913 6 90	92	00 10 -	The or her occur note .		92
į	Martes	140 1 10	98	23 15 -	These lots will be sold		-
5	Ditto	27 2 15	12	8 10 -	together.		
0 2	Ditto -	108 S 14 69 1 34	22	36 5 - 92 19 -	This lot has been sold -	1,012	22
8	Murkinish	204 1 0	28 -	127	=	-	=
9	Curreghodes	220 2 36 279 2 19	36	12 15 -			
11	Utilio	F7 2 29	13	10	Three lots will by sold together.	-	-
12	Detto	74 3 37	13	9 10 -	- Organia		
14	Diete	(O 28	13	11	This lot has been sold .	990	22
25	Budyenminusus Balleon, North	204 0 37	40	30 10 -			-
17	Ditto	45 2 30	10	7	There lets and lot No. 22	_	_
18	Ditte	44 3 36 38 0 26	7	3 10 -	will be sold together.		
20	Ditte	28 1 12	4	3	j .		
11	Ditto		16	11 ~ -	This let is a been sold -	354	22
15	Drumatolyr	123 1 6	38	45 10 -	_		- 22
24	Seafeld .	2 0 3	15	20 15 - 21 10 -		150	-
26		163 2 8		91 10 -	This lot has been sold -	3,040	24
87 28	Literare Lack, Reat and West .	2,131 1 27	97 1 10 18 16 3	27 15 - 508 12 -	ditto	616	22 45
19	Drometility (Ceaningham)	683 U 15	184 4 10	156	This let said tot No. 95		-
20	Ditto - · ·	150 0 00	47	40 15	will be sold together. This lot has been rold -	1,170	15
12	Ditte - · · ·	32 5 57	18	9 15 -	ditto	312	24
š	Ditto 1	4 0 3	- 4 -	- 10	dito	3	1 25
4	Ditto	05 2 29 10 1 12	30		- 6,000	720	24
50	Ditto-	116 1 22	33 10 -	14 10 -	They lot used lot No. 500 will	84	24
57	Dono	24 3 13	4		be sold together.	160	33
28	Ballyneman, West		16.16 -	22 5 -	-		
19	Ditto -	81 3 4	40	37 5 -	This let has been sold -	60	22
ä	Ditto	42 0 10	18	15	- ditte	293	22
42	Ditto	80 1 50 7 9 11	51	24 15 -	- ditto	602	22
44	Ditto	9 1 21	4	3 19 -	_	_	1
45	Ditto	51 1 :28	15	2 10 -	This lot has been sold -	330	22
47	Date	2 1 22	1 : :	1 10 -	- ditto	22	22
49	Ditto	F1 2 23	36	2 10 -	- Otto	809	92
			2 10 -	8			-
\$1 50	Ditto -	57 2 15 52 1 16	15	18	These lots will be sold together.	1,060	1 945
		12 2 52	18	16 10 -			1
54	Ditte	40 0 11 10 3 3	12 10 -	12	This lot has been sold	88	22
56	Ditte	23 1 97	10	10	ditto		
53		10 0 1 34 2 11	13	4 10 -	- ditto		93
53					ditto	440	21
61	Hallwayers, East and Halle.	88 1 19	2 10 -	21 10 -	- dino -	630	. 22
0	nagun, West (Part of).	0 1 91					
63	Ditto	35 1 17	22	3 10 -	forether.		1 -
0	Ditto				This lot has been sold	156 G E	22
è	Dirts	35 1 5	12 10		- ditto	275	22
6:	Cloopreddan	049 £ 31	281 - 6	1 142 5 -		4,600	25
41	Clorkson More. West .	359 D 54	266	145 10 -			-
11		101 3 36 174 1 22		132 12 -	This let has been said	1488 : :	- h "
	of Clogium Bog, East, and Clogium More, East,			10.10		115 -	· II
21		240 3 00	77 17 1		-		- 15
74	Dates	54 0 21 58 2 11	18 -		This lot has been sold	- 400 -	24
75		939 3 1	15 10 -	14	delto	- 078 -	- 84
77	Ayldarour	224 3 2		100 5		B00 -	- 40
	1	10,001 2 40				1	1

These relies were negociated between 1870 and 1880, November to November.
All these level, except No. 67, were bought by the massis. Lot 37 as sold to Mr. T. McMahlm for 5,600 i., and the senses on the lot agreed to take out leases for 29 years, at an increased rectal of 20 per cent.

From Judicial Statistics (Ireland).

RETURN of the Amount of Purchase Money of Estates of all Tenures and Descriptions, including House Property, Life Setates, Amounities, and other Terminable Interests, sold in the Landed Estates Court since the Year 1864, and the Average Rate of Purchase each Year.

Ye	ár.		Money.	Rate of Purchase.	Y	ONT.		Purchase Money.	Average Rate of Purchase
			£.					ε.	
1864 -	-	-	1,342,029	18-11	1873 -		-	1,737,222	200
1865 -		-	1,051,991	17:43	1874 -		- [1,145,986	18
18f6 -	-	-	1,268,585	19-25	1875 -		-	1,209,485	19-11
1867 -		- }	1,518,807	16-87	1876 -	-	-	1,636,748	20-9
1688 -		-]	1,062,108	18-32	1877 -	-	-	1,430,468	1918
1859 -		-	1.108,857	17-2	1878 -	-	-	1,217,027	1819
1870 -		-	757,918	15-8	1679 -	-	-	799,008	17:7
1671 -	-	-	1,008,524	182	1680 -	-	-	629,648	16-5
1872 -	-	-	1,451,687	19	1881 -	-	-	311,256	16%

LAND JUDGES (INSLAND).

٠	Number of Sales effected from	1st	Nove	mber	1880	to 61	at Oc	to ber	1881	-	-	218
	A. Of these there were sold b	у А	action									
	In court		-	-	-	-					86	
	In provincial towns		-	-		-		- 5	. =		98	114
			Tot	al N	maber	of L	iota S	old by	Anc	tion	-	110
	B. Sold by Private Contract					-			-	-	104	
	Of those there were:										-	
	Of town lots						-		-		46	
	Of country lots (sold to	ten	(ster	-			-	-		-	45	
	Of country lots (not sol	d to	tenas	ta)	-	-	-	-	-		12	
											_	104
	The number of lots adjourn bidding or insufficient biddle	ed c	r wit aring	hdrav	n fre	am na eriod,	de in	eonse •	quen	ce of	no .	202
	bidding or insufficient biddin Of these there were:	ed c	r wit uring	hdrav	en fre	on na rriod,	de in	come	quen	ce of	no	
	bidding or insufficient biddin Of these there were: Town lots	ed 6	aring	hdrav the se	ra fre	om na eriod,	de in was	eomie -	quen	ee oi	no .	58
	bidding or insufficient biddin Of these there were:	ed o	r wit uring	hdrav the se	en fre	om na eriod,	de in was	eomie	quen	ce of	no	
	bidding or insufficient biddin Of these there were: Town lots	ed c	aring	hdrav the se	ra fre	om na sriod,	de in was	eomae -	quen	ee ol	no	58

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RETURN of Demosers in Joint Stock Banks in *Beland*, for the Years 1843 to 1881.

						£,	
1843		-	-		-	6,965,681	
1844				-	-	7,601,421	
1845		-	-		-1	8,081,044	
1846					-	8,442,163	
1647			-	-	-	5,493,194	Decrease, 23 per cent.
1848			-	-	-	7,071,122	famine years.
1849			-		- {	7,469,673	
1859					-	8,268,938	
1851		-	-		-	8,263,091	
1952		-	-	-	-1	10,775,824	
1858			-	-	-	10,915,082	1
1854					-	11,066,759	
1846			-	-	-	12,286,822	
1856			-		-	13,753,149	
1867			~		-	13,116,130	
1858		-	-		-	15,161,252	
1859		-	-		-	15,042,140	
1860			-	-	-	15,009,237	
1801			-		-	15,003,065	h
1663		~	-		-	14,888,725	Decrease, 5 \ Agriculture
1866		-	-		-	12,960,731	per cent. depression
1884		•	-		-	15,622,367	1
1866		-			-	18,019,217	
1866		•	-		-	20,957,998	
1857		-	-	-	-	21,794,651	
1958		-	~	-	-	22,186,599	
1809 -		-	-	-	-	29,672,537	
1870 -					-	24,366,478	
1871 -		-		-	-	26,049,000	
1879 -		-	•	•	-	27,214,100	
1873 -		-	-	-	-	28,194,000	
1874 -	-	-	-		-	20,859,000	
1875 -		-	-	-	-	31,815,000	
1876 -		-		-	-	22,815,000	
1877 -	-	-	•	-	-	32,746,000	
1878 -	٠.	-	-	-	-	31,746,900	Decrease, 3-15 per cent.
1879 -	-	-	-	-	-	30,191,000	,, 3-14 ,,
1880 - '		-	•	•	-	20,350,000	n 2:86 n
1881 -	-	-	-	•	-	28,289,000	" 3·61 "

PRICES of IRISH AGRICULTURAL PRODUCE, 1830 to 1879.—Compiled specially for the "Triab Farmers' Gazette," by the Editor.

THE following Tables show the range of prices of agricultural produce in the Irish markets from 1830 to 1879, both years included. These prices have been taken chiefly from the market reports

published in the "Farmers' Gazette." For the prices in 1830 and 1840 we are indebted to the files " Saunders' News Letter." The prices of grain are those of the Dublin market. Where only one quotation is given for a year, it has been taken from the "Dublin Gazette," or other official source of information. The prices of flax are taken from reporte of markets in Ulster, chiefly Armael and Belfast.

The prices of beef, mutton, pork, potatoes, wool, key, and stray are Dublin prices.

Rggs.—The prices given are the wholesale rates current during the summer months in the Dublin

The prices of milch cows, two-year-old and one-year-old cattle, have been taken from the reports

of country fairs, held during the months of May and June in each year, and published in the "Farmers' Gazette." The prices of lambs are those current during May and June in the Dublin The prices of butter given were taken from reports of Cork and other leading butter markets in Munster, and also the Dublin market. 1830. 1840 1845. 1846 1847. 1848. d.

44 1.4

4 4

Whath, ger 112 lbs. Oach Daring or Daring or First or Daytor or Market or Market or Market or Wood, per lb. Try, per 112 lbs. Strow Try, per 112 lbs. Try, per 122 lbs. Try, per 123 lbs. Try, per 125 lbs. Lanks	13 - 14 6 0 - 8 8 0 - 90 - 2 - 8 0 0 - 4 - 1 6 2 - 4 - 5 -	10 - 11 6 3 6 6 10 5 - 7 95 - 40 - 56 - 33 - 48 - 1 4 5 - 1 4 5 - 1 4 5 - 1 4 5 - 1 5 5 - 1 6 7 5 - 1 7 5 6 - 1 7 5 7 5 7 5 7 5 7 5 7 5 7 5 7 5 7 5 7	11 - 18 - 7 - 7 9 7 5 8 9 9 41 - 45 - 8 9 9 41 - 45 - 8 9 8 1 4 2 6 8 8 1 4 2 6 8 1 1 1 1 2 2 6 1 1 1 1 1 2 2 6 1 1 1 1 1	11 8 - 11 8 - 11 18 - 12 - 13 1	8 8	10 8	
	1849.	1850.	1851.	1852.	1853.	1854.	
Wheel, per 112 lbs. Onls Flax Onls Flax Flax Flax Flax Flax Flax Flax Flax	A d. s. d. 5 1 5 10 5 10 5 10 5 10 5 10 5 10 5 10 5 10 5 10 5 10 5 10 5 10 5 10 10 10 10 10 10 10 10 10 10 10 10 10	a d a d 5 - 10 - 10 5 19 6 19 5 19 6 19 5 2 6 70 5 2 6 70 5 2 6 70 5 2 6 70 5 3 4 56 - 10 5 4 4 5 - 10 5 2 2 19 5 3 4 5 - 10 6 4 5 - 10 6 4 6 5 - 10 6 4 6 4 8 6 6 4 8 6 6 4 8 6 7 2 10 6 1 11 6 1 11 6 1 11 7 1 11 8 1	a. d.	E. S. A. d. 7 C 24 C 25	1, t, A d. 13 - 17 e 6 17 7 2 8 - 6 9 11 74 - 93 - 6 9 12 9 14 15 15 15 15 15 15 15 15 15 15 15 15 15	1. d. s. d. 12 - 18 - 10 - 7 9 10	
_	1855.	1856.	1857.	1858.	1859.	1860.	
Whint, per 112 lbs. Gats Barlay Barlay Butter Bed States States	A d. A d. 18	A d. 6 d. 12 - 13 - 6 6 0 7 0 6 - 12 6 6 - 12 6 90 - 106 - 90 90 - 60 - 95 - 60 95 - 60 - 95 - 60 13 6 - 7 1 3 - 2 2 6 4 - 1 1 3 - 2 1 7 1 11 1. 4 1 6 1 18 - 21 -	10 - 11 - 2 - 2 - 2 - 2 - 2 - 2 - 2 - 2 -	5 d. s.d. 8 - 8 - 8 5 6 8 8 8 72 - 112 - 91 91 - 104 - 92 90 - 104 - 92 90 - 44 8 8 90 - 44 4 - 1 1 5 - 8 1 1 4 2 - 8 8 - 8 10 1 1 2 50 6 8 1 10 1 8 1 10	8 d. s. d. 9 6 11 6 7 7 - 7 8 8 8 8 8 8 8 150 - 91 6 102 - 114 - 1 14 4 52 5 14 52 5 5 2 4 5 4 4 4 6 5 5 6 4 6 8 8 8 6 6 6 - 6 11 6 1 6 12 1 16 1 12 1 16 1 13 1 16 1 14 1 16 1 15 1	E. d. A. d. 11 - 13 d 6 - 9 d 8 - 10 d 8 - 10 d 6 - 80 - 10 d 6 - 88 - 65 - 88 - 65 - 88 - 65 - 75 - 75 - 4 2 4 6 - 7 d 1 7 I 8 5 - 4 2 4 6 - 0 2 II. 81 10 20 2 81 197 44. 72 23 - 235 - 235 - 235 - 24 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6 6	

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474	APPENDIX TO REPORT FROM THE									
	1861.	1862,	1863.	1864.	1865.	1866,				
Wheat, per 119 lbs. Out Day The Parties Heater Heater Heater Personner Personner West, per 112 lbs. Entry, per 112 lbs. Entry, per 112 lbs. They on-old cattle Output-old	E. d. A. d. 10 - 35 1 3 8 3 7 9 8 3 7 9 9 1 72 - 10 100 - 100 - 10 58 - 05 - 10 58 - 05 - 10 59 - 63 - 1 4 4 5 6 1 1 2 2 8 3 10 6 6 12 2 5 12 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	6 d. s. d. 5 - 100 - 2 0 0 - 2 0 0 5 - 16 - 2 0 6 - 16 - 2 0 6 - 16 - 2 0 8 10 - 2 1 8 1 4 4 4 - 45 - 3 1 8 1 4 1 6 6 4 1 1 6 1 1 6 1 1 6 2 1 8 2 1	a. d. a. d. 7 0 0 0 8 - 7 0 8 - 7 0 8 - 6 0 90 - 102 - 90 - 102 - 34 - 65 4 44 - 45 - 2 2 8 4 41 6 2 - 8 - 6 8 8 - 7 8 9 2 12 12 12 12 12 12 12 12 12 12 12 12 1	1	10 6 14 7 - 6 7 5 6 6 60 112 115 120 65 67 2 4 77 05 56 5 6 5 6 5 16 8 5 10 8 6	E. d. E. d. 111 - 128 4 5 0 6 12 5 64 12 5 64 12 5 64 12 5 64 12 5 64 12 5 65 12 5 65 13 6 65 14 6 15 16 16 16 16 6 17 18 10 18				
	1867.	1888.	1889.	1870.	1871.	1872.				
What, per 112 Po. Onici, per 112 Po. Onici, per 112 Po. Onici, per 112 Po. Horizon Berfinen Porice	a d. a d. 11 d 31 d 31 d 31 d 31 d 31 d 31 d 3	L d. L d. 114 4 9 9 8 9 9 18 6 19 19 2 9 19 9 19 9 19 9 19 9 19 9 19	a. £. s. d. 112	1 - 1 - 4 10 1 10 2 0 6 - 7 1 16 2 93 4 94 11 6	12 6	A. d. A. d. 19: 6				
	1873.	1874.	1875.	1878.	1877.	1878,				
Whost, per 112 lbs. One of the control of the cont	5 8	1 3 1 9 6 8 6 - 9 0 3 6 7 - 9 - 16 1 20 1	2 d. a.d. 9 5	9 31 - 7 54 - 8 48 - 8 48 - 8 52 - 74 110 - 154 170 - 25 176 - 28 51 9½ - 1 8 1 5 - 8 5 4 4 4 5 4 11	101. 107.	40 - 80 - 3 8 8 8 1 - 1 3 6 - 4 - 1 8 8 8 5 - 9 9 154 344				
	1879.	Rama	axe, Priens IN	1670.	1880.	1881.				
Wheel, per 112 lbs. Ohis Barley Fix Fix Beref Muttas Frant Frant Frant Bref Muttas Frant	19 - 12 - 5 8 10 - 7 - 8 - 66 - 80 - 61 - 151 - 06 - 80 - 66 - 93 - 66 - 93 - 66 - 93 - 7 - 8 - 7 - 8 - 7 - 8 - 7 - 93 - 87 - 8 - 7 - 93 - 87 - 93 - 87 - 93 - 87 - 93 - 93 - 94 - 94 - 94 - 9	The lowest tog taber. Top gries in C per cert. Crop 1676. Trade very dg Crop 1678.	incity was quoted fair and August. I price quoted, 65 intolory, 5½ d. per Il Unough the seu	16., was in Oo-		a. d. a. d. 8 8 11 7 8 8 10 7 8 8 10 7 8 8 10 7 8 9 - 24 - 84 - 50 - 148 - 68 - 84 - 00 - 60 - 2 6 8 8 - - 2 6 8 8 - - 2 6 8 8 - - 2 6 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8 8				

EXTRACT from the "Farmers' Gazette," 6 September 1879.

LESSONS FROM THE PAST.

Thus undecourable decumationes in which frames are placed at the present time, from a monetain of the absents and other depressing influences, have been described as an accession of the absents and other depressing influences, have been described as an overcome. A little consideration, bowever, would show that past experiment does not apply the black that he present state of the agricultural insurers in improcedented, nor all the consideration, bowever, would show that past experiment does not apply the black that he present state of the agricultural insurers in improcedented, nor state that the state of the agricultural insurers in improcedented, nor said that history repeats itself, and this is tree, not only of get out of the contract approximation of a market approximating to the posted contribution of a surface.

It has been stated by some that weather runs in cycles, which are covered by a space of nineteen years, and it has been considered that the system of letting land on lease for a of minimum years, which has generally prevailed in Sociand, originated in some opinion of this kind. Be that as it may, we certainly find, on looking back on the agricultural bistory of the country, some curious facts which would appear to export the theory that in the course of each nineteen years we have a return of certain conditions of weather, &c., at corresponding periods, and that such conditions exercise a similar iuweather, fig., at corresponding periods, and that each conditions exercise a smaller in-clease. We shall mishway to illustrate its point, and in deep cold not be priced back that the pass 1881 in 1863. This contrary had by that time recovered from the Archange for the weath of the contrary had by that time recovered from the server, and the present soft jobs in 1860. The spring of that year was durmally overer, and the preparation contrary that the same part of the present weather is present only loss in 1860. The spring of their year was durmally weather in present over hard on those when early in course price cash through, and and applies of 1650.00 will be long recombered, an amount of the straight to which many terms there reduced from pass, parallal near high that of 1867. "The Dollation calls have been reduced for loops, a popular loop being that of 1824-57. "En Dahin confe which were despited to still heart at long ming the discretized and likely price of ly-At the kine of Style, reposed in our issue of 7th April, therepercode caule longs is from plane. "Me a skilling was defrest for postuper catch, which appeared in long numbers for core and neighbor likely are defrest for postuper catch, which appeared in long numbers for long and neighbor likely are defrest for postuper catch, which appeared in long numbers for long and neighbor likely are defrest for postuper catch, which appeared in long numbers for core and neighbor likely are defrest for postuper catch, which appeared in long numbers for neighbor likely and the long of the long of the long of the long of the distribution and the long of the long of the long of the long of the Very likely has been done in preparing for or getting in spring origon, the land lying gat and was when the long of the as it was when hast you's cupy was harvested. On 16 did June we stated in our weekly registed him. "In the good continuous of we weather it causing instances assistant and the property than "In the good continuous of we weather it causing instances assistant and fact, the country is flooded to such as extend that nebding one he done. The owner evides can scarcely be said to have commanded, except in a for east of Bindler during the register of the continuous as that which has characterised the current year. Not only have we had a more than usually ecopion satisfact, that there has been an about contains hances of smalline, which usually ecopion satisfacts and an about contains hances of smalline, which the productive contains the satisfacts of the satisfacts of the satisfacts of the facts it flames, the satisfacts of satisfacts that another satisfacts of the satisfacts of configuration is somitted that examine of options that satisfacts of satisfacts that another satisfacts of the satisfacts of s the lagitming of October that much was done in scouring the crops, and on the 20th of that month fields of green, unripe corn were to be seen in several parts of the country, and even so late in the sonce as 10th November there was a considerable portion of the

comp still in stock.

It is all prints of the the state of the state o

mud which the swolles rivers brought down. The produce of old measiows floated sway in all directions, and then came the potsts disease, with shorest a critical failure. As regards wheat, growers must content themselves with an average of from flow to six harvels per acre when threshing is over. This, indeed, in a low return, lower that: has been remembered within the memory of the present generation."

The spring of 1862 was also late, and sowing was consequently retarded. On 20th June the loan funds in their different districts, to enable them to put in their crops, sad now that some of them are beginning to come to perfection, the balliffs are out every day in all directions exscuting decrees which have been obtained against them during the sessions just brought to a close in this county. Such a state of things is lamentable, and a great deal of blame rests upon those shopkeepers who encourage and carry out with the country farmers a large credit trade." On 26th July we stated that "difficulty is still experienced ing etting grass cattle ready for market, owing to the poor qualities of the grass, and the same cause, as will be seen in another part of this report, is seriously affecting the pro-duction of butter." The statement with regard to butter was as follows: "Dairy farmers duction of netter. It as distinct with regard to netter was a blown: "July immers in the seath west are complising someties of the superior of the particle of three will be liftle done before the beginning of next month. "The companion of two properties of the state of the assessment of the properties of the state of the assessment months." As considerable administration from the properties of the state of the assessment months. As considerable administration from the properties of the state of th BANYO WHS PEDITED THE ABOUT AND ASSESSED TO THE STATE OF THE ABOUT ASSESSED THE ABOUT ASS though saved some time ago, are yielding very indifferently, this is one of the weest seasons farmers have lad to encounter for many years. The amouncements which are appearing of shatements of rents varying from 15 to 30 per cent, according to circum-stances, indicate the course which several landlords have taken with their tenantry under the present pressure, arising from deficiant crops; and we trust that landlords in all cases will bear in mind the fact that a large number of farmers will find it impossible to feed their families, and, at the same time, meet their landlords claims in full." During the years we have referred to, and capecially in 1860 and 1881, great difficulty was experienced in saving turf, so much so that there was a fuel famine in many districts, and various plans were suggested for economising fuel, and for teaching the peasantry bow to ovatantavo ditiv laco sau

We shall now to bow the meteorological characteristics of the years we have mentioned affected in the vactor of the court, In 1820 drew were 64.579 however membered affected in the vactor of the court, In 1820 drew were 64.579 however discusses a coincide in thicked was 31.560 feet and 1820 the mannler given was 1,44.511 hours of the contrast in thicked was 31.560 feet and 1820 the mannler given was 1,44.511 hours of 1820 drew was 1,54.551 hours of 1820 drew was 1,55.551 ho

Inhabate in a tallicitation entered beam. With are in an expenial manner the stock of the small furrares there was also a marked decrease. Thus, of same the decrease was \$1,10 beat; of gents, \$2,500 keet; of figs, 108,208 head; and of positry, 607,231 head. Putting a money value out the loss of stock between 1850 and 1869, both inclusive, at the very low money value out the loss of stock between 1850 and 1869, both inclusive, at the very low for the loss of stock between 1850 and 1869, both inclusive, at the very low for the loss of stock between 1850 and 1869, both inclusive, at the very low for the loss of stock to the loss of stock to the loss of stock to the loss of stock of the loss of stock to the loss of stock of stock of stock of stock of stock of the loss of stock of

added 50 per cent. to it.

In March 1863 Mr. James Ganly, when speaking at a meeting held in the Board-

seem if the Beyel Dublin Sciency, robes of "the pattern facts of the multi fearure being mutually to app retries; in many cases unables to get seed and ballow; if the reare verforgivens, this country shoppers all breaking into bankrapitys, and the necessaria to the control of the seed control of the seed of the case people were superpixed, by and having their last classical, for want of shall and words employed emission of the seed INDEX.

ANALYSIS OF INDEX.

LIST of the PRINCIPAL HEADINGS in the following INDEX, with the Pages at which they may be found.

								PAGE		PAGE
Acreage								481	Land Block	- 400
Adams v. i	Dunees	/A						481	Landed Entotes Court	- 490
AGREEME	ere e	on Je	тыся	AL R	WF			481	Landions	- 500
Arraua			-		-			482	Landlord and Tenest (Ireland) Act, 1870	- 394
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